

**ALABAMA LAWS**  
**(and Joint Resolutions)**  
**OF THE**  
**LEGISLATURE OF ALABAMA**  
**PASSED AT THE**  
**REGULAR SESSION 1984**  
**VOL. I**



**GEORGE C. WALLACE, Governor**  
**WILLIAM J. BAXLEY, Lieutenant Governor**  
**JOHN A. TEAGUE, President Pro-Tem of the Senate**  
**TOM DRAKE, Speaker of the House**  
**ROY JOHNSON, Speaker Pro-Tem of the House**  
**McDOWELL LEE, Secretary of the Senate**  
**JOHN W. PEMBERTON, Clerk of the House**

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**WITH AN INDEX PREPARED BY THE**  
**LEGISLATIVE REFERENCE SERVICE**

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The undersigned, as Secretary of State of the State of Alabama, does hereby certify that this book contains bills and joint resolutions enacted at the 1984 Regular Session and Special Sessions of the Legislature of Alabama and is the official publication of such acts.

**Don Siegelman**  
**Secretary of State**

Hammurabi, the King of Babylon, initiated a practice some 4000 years ago which has become a cornerstone of democratic government—a written code of laws. This ancient concept of the public's right to know is acknowledged and protected by the "due process clause" of the Fourteenth Amendment of the United States Constitution, the Alabama Constitution, and the Code of Alabama, which require that Alabama's laws be published and made available to the public.

However, because the laws are available to the public does not necessarily mean that they are accessible. It is said that one of the hateful acts of the ill-famed Roman Emperor Caligula was that of having the laws inscribed on a pillar so high that the people could not read them. In an effort to lower the "pillar" a tiny notch, and thereby make our laws slightly more accessible for those who are regular users of the Alabama Acts, a new numbering system was initiated in the 1979 session.

Under this system, every act of the Legislature, regardless of the type of session in which it was enacted, is numbered sequentially in the order received by the Secretary of State. Numbering begins at the commencement of each calendar year and incorporates a two-digit prefix corresponding to the last two digits of the year of enactment. For example, the first act received from the Governor in 1983 is designated as Alabama Act 84-1, the second act is 84-2, and so forth.

Suggestions regarding the organization, publication and distribution of these acts are welcomed.

Don Siegelman  
Secretary of State

**GOVERNOR GOERGE C. WALLACE  
BEFORE THE  
1984 ALABAMA LEGISLATURE  
REGULAR SESSION  
FEBRUARY 9, 1984**

Governor Baxley, Speaker Drake, Ladies and Gentlemen of the Legislature, My Fellow Citizens:

I come before you today as we begin the 1984 Regular Session to recount some of the past, examine our present, and discuss our thoughts of where we need to go in the future.

I can say today that Alabama has made good progress since I reported to you in January 1983. The state of the State of Alabama today is such that we can see light shining at the end of the economic tunnel. There are smiles back on many faces, and there is reason to believe that with continued hard work, prayer, and blessings from our Lord Almighty, we will soon again be leading our region in economic development. We have a wonderful state and great people. With continued commitment on the part of our leaders in government, business, labor and industry to work together, our recovery from the economic depression which hit Alabama will continue to be swift and sure.

Ladies and gentlemen, last year our goal was survival. Last January marked the third time that I had taken the reins of state government. Without a doubt, we were in the most deplorable economic state of affairs within state government that I have ever known or seen.

For starters:

1. The General Fund was in 15 percent proration with income running about 70 percent of the budget.
2. The Education Fund was in 10 percent proration.
3. We owed the federal government five million dollars on Hurricane Frederick.
4. We owed one hundred and nine million dollars because of misspent Revenue Sharing monies and federal funds.
5. We had just gone broke in the Unemployment Compensation Fund and had to borrow fifty-four million dollars from the federal government which would cost us heavily in interest.
6. Medicaid was funded largely on one-time money.
7. Bills owed by the State were not paid and behind for several weeks.

8. We faced a very real possibility of not being able to meet the first two payrolls.

9. We were in a heck of a mess!

Thanks to a lot of hard work, we are much better today. Through good fiscal management by the Finance Director, Department Heads and others, we have met payrolls, paid the State's bills, paid off much of the indebtedness, worked without federal officials to get a forgiveness concession on the Revenue Sharing, and a payment plan on the hurricane disaster debt.

With the help of many of you here, we passed unemployment compensation legislation which enabled us to pay back the fifty-four million dollar loan without any interest being assessed. That same legislation raised our benefit level to the Southeastern average when we had been on the very bottom.

Through a decline in unemployment, sound fiscal management and more confidence from our private sector, the growth in our Educational Trust Fund was phenomenal last year. Before the end of Fiscal Year 1982-83 last September, we were able to return all funds held back by proration to our school systems. No school system or school lost a dime because of proration in 1982-83.

Today, instead of being in proration, we have a working balance—real and projected—of three hundred and eight million dollars in the Sepcial Educational Trust Fund. It is quite a turnaround to come from one hundred and forty million dollars down to a three hundred and eight million dollar advantage. This could not have been possible without your help and also with the help of our professional administrators in education, our teachers, and most of all the hard work and productivity of our working men and women in Alabama.

Our General Fund is in trouble! We cannot fund the agencies who live out of the General Fund to an acceptable level. The federal government continues to shift more and more of the funding burden to the states as they wrestle with the federal deficit. We are faced with curtailing or severely limiting some services or increasing funding. Medicaid costs have been held more in line than ever before, but if we are to continue this vital program to our elderly and disabled, we must provide additional revenue.

The state troopers have been forced into selective patrolling for some time. Last year when in proration, each tropper could only patrol a very few miles each day. We must increase funding to the state troopers if we are to ensure a reasonable degree of safety on our highways. We need additional troopers, vehicles, and operational resources.



Our state parks are in bad need of essential maintenance. If we do not make certain repairs, we will be facing greater costs in a very short time. We are blessed with an outstanding parks system which serves to attract many visitors and to keep many Alabamians vacationing in the State. We have simply got to take appropriate care of these parks.

Court operations are essential to the State and need additional resources.

The Revenue Department under Commissioner Jim White is doing an outstanding job. As we increase the collection responsibilities, the need for additional personnel is certainly understandable.

I will also be offering to you a recommendation for state employee compensation. Employees must be adequately compensated to assure that we attract and keep competent and dedicated employees. In line with compensation, we are also suggesting changes in the Retirement Systems.

I want to emphasize and underscore that our recommendations will not affect the benefits of any present remployees or those employed prior to the date specified in the legislation. Today, the Retirement Systems are sound, but the State contributes millions of dollars each year to these systems. Public retirement systems have run into disastrous troubles in other states and cities. We must not allow that to happen in Alabama. Current state employees, teachers, judges and troopers should understand that the recommendations that we are offering are necessary to preserve and ensure that their retirement is protected and that the Systems will not be in jeopardy during their retirement years.

The time to correct a problem is before it gets to be a crisis. We cannot continue to offer a retirement that in many cases rewards employees above their working salaries. I trust that each employee group will recognize our effort is designed toward future employees as to the level of benefits.

We are asking that all current employees increase by one percent the amount they contribute to their retirement. As we adjust compensation, this should be painless to all and fair to employees and taxpayers.

## MENTAL HEALTH

Mental Health is underfunded by some seven to ten million dollars. We have space in some facilities for patients which cannot be used because the Department cannot pay for additional personnel. We must raise better than seven million dollars for Mental Health, and I am proposing legislation to do just that by equalizing the 2.2 percent utility license tax which is currently paid by every customer

of Alabama Power Company, every rural co-op customer whether served by TVA, co-op power or Alabama Power. Some ten percent of the customers do not pay this tax because they are served by a city system. If some are going to pay as the ninety percent do, then it is only fair that all pay this tax. This revenue is already earmarked for Mental Health.

## PRISONS

I appreciate the work that you did in the past sessions to bring about an upgrading of our prison system and to solve some of the problems that we faced there. We have opened the West Jefferson facility and moved toward building the new prison in Southeast Alabama. Overcrowding is down, but we are still gaining better than 100 prisoners per month.

One would have to look long and hard to find a state that has done as much as we have in the past year—and for that matter for the past six years—to upgrade a prison system and meet standards set by a federal court. I appreciate your help and the help of the people of Alabama.

Today, I ask the federal courts to recognize that progress. I ask them also to help us as we continue to meet with this problem. The Federal 11th Circuit Court action last week was encouraging as they stayed the contempt citation against state officials and stayed any release. Hopefully this action will soon be made permanent.

The Federal District Court contempt citation against the Attorney General and the Prison Commissioner was utterly ridiculous! On the one hand, the judge told the Prison Commissioner that you are doing a great job, but then later said, "I'm going to fine you anyhow because I need to show the Appellate Courts that I will fine somebody." The federal judge is the one who should have been fined! This knee jerk action has cost our taxpayers over a half million dollars to date.

The space requirement of sixty square feet per prisoner is also ridiculous as ordered by the Court. We can meet the requirement in new facilities, but we cannot tear down the walls of the existing prisons built prior to the date of that court order.

Personally, I do not see anything wrong with prisoners sleeping two to a cell. They should only be in the cells to sleep anyway. They should be working during the daytime hours and when they are not sleeping. They are not in the penitentiary for misbehaving in church. They are there for punishment and corrective training because of misdeeds against society. Many of our college students bunk two and three to a dormitory room. Many of our families are forced to live as two families in the same house or apartment. Also,

many of us victims do not have sixty square feet. I have the space in which I can reach whether in this chair or lying in bed. The fellow who shot me has more square feet in which to live than I do even though he is in the penitentiary.

We will continue to improve our prisons. It is time for the federal courts to help us and not hurt us in this effort!

Judge, I must tell you, Alabama through two Governors and several legislatures have sacrificed and sacrificed to upgrade the conditions of our prisons since the original court order. You still hold the threat of the mass release of prisoners over us.

Well, Judge, there will not be any mass release of prisoners in Alabama again. If you are going to turn any loose—scot-free, it is only fair to warn you that you will have to come and get them! You will have to take them from this governor and I believe this legislature as well.

We are asking you for additional funding for prisons in the amount of fourteen million dollars. The opening of new facilities will demand staffing and operational funds.

## **JOBS**

Alabama has a good business climate as evidenced by a Dun and Bradstreet recent report showing Alabama with more business starts last year than any other state in the Nation. We had a good and successful year in the recruitment of new industries. Our state and our respective communities gained sixty-nine new industries during 1983. These industries will add over 5,000 jobs. We also had the expansion of 808 plants in Alabama with an increase of 17,000 jobs through those expansions. Every county had a new or expanding industry in 1983. I appreciate those who have worked at the Alabama Development Office, the local Industrial Development Boards, the local Chambers of Commerce, and others to recruit new industry into Alabama. We are especially appreciative and grateful to those who have decided to invest their resources in the State. We feel that you have made a wise investment in a state that has a good business climate and a state that will continue to improve that business climate.

We will intensify our efforts in the recruitment of industry and business both in the domestic and foreign markets. In 1984, Alabama and the city of Birmingham will host the Southeast United States/Japan Association meeting in Birmingham. Several of our foreign friends in business and industry will be visiting among us. We look at this as an opportunity for Alabama, and we will continue to work in those overseas markets to attract investment for new jobs

and to help offset the balance of trade deficit which faces this nation and threatens us economically.

Since our trip overseas last year, we have announced a new television manufacturing plant expansion and a new microwave oven plant from Korea, a Mitsubishi plant to be built in the state of Alabama, and a soybean sale to the Republic of China in Taiwan. As I have stated we will intensify those efforts again this year with missions by some of our top officials to foreign markets.

Unemployment is down. It has been reduced by about four percentage points. It is still around the 12 percent mark, and that is too high. It is way too high, and we will continue our jobs development efforts to lower unemployment into the single digit level in order that every Alabamian will have an opportunity get a meaningful job.

I would like to commend the University of Alabama and General Motors for the working arrangement between the two of them that saved the Rochester Carburetor Plant in Tuscaloosa. Through the efforts of the University of Alabama in business and industrial research, General Motors increased productivity in the plant and saved that industry for Alabama workers. This effort has received national acclaim and will accrue many benefits to the State. We must continue our efforts with our universities and schools working closely with industry.

Alabama was hard hit by the trouble to the heavy metals industries in the United States. Thousands of steel and aluminum workers were laid off in recent years.

In Birmingham, 28,000 steel workers lost jobs. We cannot expect to regain all of these jobs, but the recent actions of U. S. Steel and the United Steel Workers Union were most encouraging. I was pleased to have personally been able to perform a role—successfully—in getting the Union and company to agree to a condition which is bringing about a large investment from U. S. Steel and will return 3,500 workers to their jobs. Hopefully, the investment by U. S. Steel will lead to expanded operations by that company and more jobs in the future. This was a classic example of industry, labor, and government working together to improve a state's economy.

## EDUCATION

Education is expensive. Ignorance is much, much more expensive and eternally wasteful when the God-given abilities of our people are left underdeveloped for the lack of opportunity.

Alabama has made strides in the education process, but the competition is fierce. Industries and businesses locate where educational opportunities exist. We have heard much about the emphasis on education in other countries. We are not only in competition with

foreign countries as far as educational development, but inasmuch as industry and business seek out those areas where educational opportunities exist, we are in a heavily contested battle with our neighboring states. The quality of education will make or break Alabama in industrial development. If Alabama is to have a chance to live on par with our neighbors in the late 20th Century and the 21st Century, we must rededicate ourselves to a commitment of progress and excellence in education. There must be a war declared—not just on illiteracy—but also a major war against mediocrity in education.

The thrust of our new efforts in education must always be directed toward increasing the benefits to the students. Productivity through student excellence will bring tremendous rewards to the professionals in education.

At the same time, those of us who do not work day to day in the field of education must realize that the improvements that we seek to make will be made only through the dedicated efforts of those who work to administer and teach in education.

By a vast majority we have good teachers. In the case of my own children, those who cared for them the most and worked with them more than anyone outside the immediate family were their school teachers.

It is a sad commentary that as we are assembled very few of us here would today encourage a child of ours to pursue a career in public education.

We must set professional standards for our teachers and administrators and demand that those standards be met, and demand that those who do not meet them be gone! Teachers who teach and work with their students must be rewarded in line with their important station in our society. Those who do not know what or how to teach and work with students must be told to find a place or a job in which they can work.

Any law which serves to limit the advancement of the competent and the hard working and to protect the incompetent, the mediocre and the unwilling is nothing short of criminal, especially when we are dealing with the training of the minds of our precious youth!

I am asking the State Board of Education and each local board of education to adopt and implement teacher evaluation programs in all of our school systems. This program must identify the desired teacher skills and measure the degree to which those skills are performed. Criteria for improvement of any affected performance must be established with improved performance made a condition to continued employment. I strongly encourage our State Board of Educa-

tion to study and upgrade teacher intern programs, certification requirements and entrance requirements and standards of our schools of education.

The State Superintendent should proceed to appoint a special task force to study and recommend changes to the State's Tenure Law if needed. I agree that teachers must be protected, but the need for protection must be balanced against the needs of students!

## TEACHERS' SALARIES

If we are to demand and expect excellent teachers, we must be willing to pay a decent salary. In my budget recommendations, I am suggesting increases for elementary and secondary school teachers. To some of our teachers these increases will be viewed as small. To some of our public these increases will appear too large. We must be mindful that there was no increase last year. When inflation over the last two years is factored into this raise, the real increase will be a meaningful gain but in line with the State's ability to pay.

The fact is, ladies and gentlemen, that we are approaching a real shortage of teachers in Alabama. Last year we had very few math, physics, and chemistry majors certified to teach through our colleges of education. The demands for these disciplines in the business and industry sector are encouraging students to bypass the necessary training for teacher education courses.

We are also recommending an incentive and bonus program for which our teachers may compete. These will be monetary rewards for outstanding performance and available to all who have the initiative to pursue them.

We are asking for one million dollars in math and science scholarship funds. These scholarships will be awarded to outstanding students who commit to teach for a specified number of years to repay their scholarship.

Also recommended in our budgets are increases for additional research in our universities, increases to the post-secondary system and badly needed transportation funds to replace worn out school buses. We are also recommending increases in the textbook program and burned out school funds to assist our local communities and to ensure that the students have the necessary tools with which to work.

## KINDERGARTENS

The time has come for the State of Alabama to stop talking about kindergartens and make kindergartens available to every five year old child in this state. My budget recommendation provides funding for a statewide kindergarten program. I encourage you to

leave the attendance requirement optional. We have many fine church and private kindergarten programs ongoing in the State. We can evaluate the performance of these programs and compare them with the performance of the public system. The private kindergartens are serving to keep much of the financial burden off the State. I commend those who are running these program snad encourage them to continue.

#### DR. TEAGUE'S AND STATE BOARD'S PLAN FOR EXCELLENCE—THE ALABAMA PLAN

I commend our state superintendent, Dr. Wayne Teague, and the State Board of Education for coming forth with the Plan for Excellence for Alabama's public schools. I know that Dr. Teague and members of his staff have been over the length and breadth of Alabama, explaining this plan to parents and educators in the various communities. The outpouring of interest in this plan underscores the public awareness and the public demand for excellence in our schools in the State of Alabama.

I endorse the Plan for Excellence, which Dr. Teague and the Board have asked me to call the Alabama Plan. I have asked Dr. Teague to convene a meeting of the State Board of Education this afternoon which I will attend, and we will consider resolutions to adopt points in the Alabama Plan which can be implemented through action by the State Board of Education. I will encourage those of you in the Legislature to consider the legislation which is required to implement the Plan in those areas which require legislation.

One of the most common questions asked of me in regards to this plan has been the mistaken impression that the Plan would do away with interscholastic athletics in our schools. I can assure you that that is not the case. Alabama's public schools enjoy an excellent athletic program. I have talked with Dr. Teague, and he agrees with me that what we are seeking is common sense and logic in the scheduling of athletic events during the school week. On the junior high level, and for that matter any level, we should not consider scheduling more than one athletic event during a week that would occur on a night preceding a school day. This would allow for a continued basketball program in our high schools and other athletic events which are important to the boys and girls in Alabama. Athletics serve as a cohesive force for many of our commnities. They serve as a motivater for many of our students and actually entice many of our students to remain in school who otherwise might drop out.

I feel that we can continue to keep our fine system of championship playoffs in the State of Alabama, and would encourage the

State Board to do so. Again, we must use common sense in our scheduling. Schools do not have to travel two and three hundred miles to play an athletic contest.

Some of the resultions we will be asking the State Board to adopt to implement the Alabama Plan are as follows:

1. To require all teachers to include homework as a part of each student's instructional program.
2. We need parent-teacher conferences for all students.
3. We need better guidance programs.
4. We must provide remediation for all students who are failing to learn.
5. Require that all social promotions be discontinued.
6. Require the basics for instruction in grades K-8 be broadened to include language arts, computer literacy, art, music and physical education.
7. We msut establish specific learning goals for each grade level.
8. Require the awarding of a general and honors program diploma for students completing specified curriculum of study.
9. We must insist that required courses to obtain an honors diploma be made available to every student.
10. Require that kindergarten be made available to all five year olds.
11. Require that each school system provide adequate adult education programs.
12. We must see that teacher training programs be strengthened.
13. We must make needed changes in our teacher certification programs, allowing for some flexibility.
14. Develop an effective educator evaluation program. Let me assure you that the people affected by the evaluation will be involved in the development of the program.
15. Improve our existing math and science teacher scholarship program.
16. Require in-service and professional development programs for school personnel.
17. Require that students receive a full six hours of instruction per day.



18. We must preserve our outstanding fine arts, band, choral and debate programs. This can be done through proper planning.

19. We will ask every local school system to develop its own plan of excellence.

20. Finally, we must strengthen our curriculum requirements for all students in all program areas. The Alabama Plan provides for this in a very adequate way.

In order to fully implement the Alabama Plan, I am asking that you pass legislation establishing the Alabama Education Reform Commission. The Commission will be composed of representatives of business, industry, labor, education and citizens interested in seeing Alabama become a leader in quality education. It will be charged to study and develop reforms in teacher compensation and professional standards for teachers and administrators.

### HIGHWAY PROGRAM

With the enactment of federal legislation last year, Alabamians commenced paying to the federal government an additional five cents per gallon on every gallon of gasoline they buy. These funds are set aside for repair and maintenance of the federal road system throughout the country. Each state must match those funds with certain revenue. Over the next five years 1.4 billion dollars will be available to the State of Alabama to improve the federal roads and bridges in the State. To take advantage of this 1.4 billion dollars, the State of Alabama must match it with 200 million dollars. The Joint Legislative Committee on Highways has recommended a way in which the State would collect the revenue that would enable it to meet its matching requirements on a pay-as-you-go basis. I am going to recommend to you that you implement those recommendations in the Committee's report.

The economics of a 1.6 billion dollar highway program with 1.4 billion dollars being furnished by the federal government are obvious. If we do not use the federal monies paid in by Alabamians, they will be available to other states who do match them, and those funds would not come to Alabama.

By taking advantage of federal funding for the U. S. and interstate roads in Alabama, we will have more state funds available to maintain and upgrade our state and county road network. We are coming through a hard winter with heavy freeze damage to many of our roads. I urge that you move with haste to enact this needed highway legislation. Not only is it needed for our roads, but many jobs will be created through the state and federal road program.

Alabama's government will be as good as her people want and demand it to be in the future. We have all read and heard the calls

from leaders in business, local governments, education, leadership groups in communities, the media, and others for improvements in development, research, and education in our state.

Last year, prior to becoming Governor, I appointed a task force on economic recovery. After reading the Task Force's initial report and in view of some of the recommendations they made, I asked them to study Alabama's tax structure and make additional recommendations for improvements in the tax system in light of Alabama's future needs. With financial help from the Governor's Office, they employed Price Waterhouse to make a study of the State's tax system at the present time. In view of Price Waterhouse's work and the Committee's further considerations, the Task Force has recommended certain options to me which I pass on to the Legislature.

The Task Force took particular note to say that they were recommending things they felt should be done and not necessarily things that can be done. Many of their recommendations have been attempted before with little or no success. It is going to take cooperation and leadership to bring about measurable improvements. If you desire a quality education program, if you desire a state that can compete for industry and commerce, if you desire a state where our children can stay and be productive on par with other states in our region, if you desire Alabama to be a meaningful part of the 21st Century, we must provide some long-range funding and identifiable quality standards and controls for public education. I am providing each of you with a copy of the Task Force's report to me. We will also be presenting for your consideration and passage some of the requested items, maybe modified somewhat. Funding measures will not apply to Fiscal Year 1984-85. They will be for future and long-range upgrading of schools and universities in our state.

In keeping with the Task Force's recommendations, I am asking that you submit to the people of Alabama two constitutional amendments designed to raise funds needed for future revenue in Alabama. One of the amendments addresses property tax, while the other deals with individual and corporate income taxes.

Although the proposed income tax amendment revises the maximum individual income tax rate which can be levied from five percent to six percent, the accompanying enabling legislation which I propose will be structured so that there will be no increase in the tax burden of the average married couple. Those couples with yearly incomes of 20,000 dollars or less should not feel any effect from this legislation, and for every 10,000 dollars of taxable income above this amount, the increased tax will only be 100 dollars.

Corporate income tax would be raised from a flat five percent to six percent with passage of this amendment.

We will also propose a new six mill state property tax which will be used to provide funds for education, to provide new monies for the State General Fund and to provide new monies for the counties of this state for use both for education and for the counties' General Funds. It is my belief, however, that any tax increase should not burden the small homeowner or the small farmer, and so I am also proposing that the state homestead exemption from property taxes be increased by 20 percent so that the owner of a home valued at less than 50,000 dollars will not have to pay any state property tax. In addition, I am proposing a new exemption for the individual rural landowner (not corporations) whose property does not exceed 25,000 dollars in assessed value. These property tax proposals, of course, will not take effect unless approved by a vote of the people, and if approved, will provide our state with much needed monies for education and General Fund purposes, but will not burden small homeowners or owners of small farms.

All of us in state government face a stern challenge. This may not be the best time to be a member of the Legislature or the Executive Branch. I know that we are presenting you with some difficult choices. Alabama's future depends on your decisions. Empty rhetoric and popular-sounding alternatives which you and all who are informed know will not provide solutions only serve to harm our state and probably to hurt those who would present them in a political sense in the future.

Now is the time for you who will be statesmen to come forth and help to lead Alabama into the future.



**ALABAMA LAWS**  
**And Joint Resolutions**  
**REGULAR SESSION 1984**

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Act No. 84-1

H.J.R. 2—Rep. Johnson, Roy

**HOUSE JOINT RESOLUTION**

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, THE SENATE CONCURRING, That a committee of three members of the House, to be named by the Speaker of the House, and three members of the Senate, to be named by the Presiding Officer of the Senate, be appointed to notify the Governor that the Legislature is now in session and is ready for the transaction of business.

Approved February 14, 1984

Time: 4:35 P.M.

Act No. 84-2

H.J.R. 8—Reps. Hooper, McKee, Starr,  
Mikell

**HOUSE JOINT RESOLUTION**

DESIGNATING MARCH 10, 1984 AS "RAYMOND WAITES DAY" IN ALABAMA.

WHEREAS, Raymond Waites is a native of Alabama and graduated with honors from Auburn University; and

WHEREAS, Creative Vice President and Designer of Gear, Inc., Mr. Waites is one of America's most influential designers in the American "country modern" movement with his "New Country Gear" collections currently exceeding \$250 million in retail sales; and

WHEREAS, Waites has become the first American designer of home fashions to be recognized and widely accepted throughout Japan and Europe; and

WHEREAS, Mr. Waites' work was featured in a recent issue of Better Homes and Gardens Decorating and was the cover story for the August 1983 issue of House Beautiful; and

WHEREAS, Raymond Waites has scheduled a seminar and lecture at Montgomery's historic Davis Paramount Theatre for the

Performing Arts on March 10, 1984, whereupon he will disclose "Gear Kids"—his new collection of children's products; and

WHEREAS, in recognition of the outstanding accomplishments of a native son, it is entirely fitting that Raymond Waites be appropriately honored by the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That March 10, 1984, is hereby designated and shall be observed as "Raymond Waites Day" in the State of Alabama.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to Mr. Waites as a memento of this honorary designation of the Legislature.

Approved February 14, 1984

Time: 4:35 P.M.

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Act No. 84-3

H.J.R. 12—Rep. Venable

### HOUSE JOINT RESOLUTION

CONGRATULATING THE CITY OF WETUMPKA ON THE OCCASION OF ITS ONE HUNDRED FIFTIETH ANNIVERSARY.

WHEREAS, on January 17, 1834 the Senate and House of Representatives of the State of Alabama in General Assembly approved the incorporation of the City of Wetumpka; and

WHEREAS, the Act of Incorporation became official on the second Monday in February, 1834; and

WHEREAS, during the 150 years since that Act of Incorporation, the City of Wetumpka has been a business and civic leader in Alabama, producing many outstanding citizens who have served their state and nation well; and

WHEREAS, The City has a proud heritage, named by its original Indian inhabitants as "Tumbling Waters," indicating its location at the falls on the Coosa River; and

WHEREAS, Wetumpka and its citizens are beginning an exciting and enjoyable Sesquicentennial Celebration, culminating on Labor Day Weekend with a return to their homeland by Indians from Wetumka, Oklahoma; and

WHEREAS, the future of Wetumpka is a bright one, given its strategic location on the Coosa River in Mid-Alabama, and its inno-

vative and imaginative citizenry; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That the citizens of the City of Wetumpka are congratulated on the observance of the Sesquicentennial of their city's founding; and

**BE IT FURTHER RESOLVED,** That a copy of this resolution be presented to the Citizens of Wetumpka on February 13, 1984.

Approved February 14, 1984

Time: 4:35 P.M.

Act No. 84-4

H.J.R. 14—Rep. Johnson (Roy)

### HOUSE JOINT RESOLUTION

**BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, THE SENATE CONCURRING,** That a joint session of the House and Senate be held at 11:00 a.m. on February 9, 1984, for the purpose of hearing the message of the Honorable George C. Wallace, Governor of Alabama.

**BE IT FURTHER RESOLVED,** That a committee of three from the House, to be named by the Speaker of the House, and a committee of three from the Senate to be named by the Presiding Officer of the Senate, be appointed to wait upon the Governor and advise him that the two Houses will meet in joint session at the hour named above, for the purpose of receiving his message, and that said Committee also serve as a Committee to escort the Governor to the House for the joint session.

Approved February 16, 1984

Time: 4:05 P.M.

Act No. 84-5

S.J.R. 4—Senator Corbett

### SENATE JOINT RESOLUTION

**URGING THE OBSERVANCE OF GRANDPARENT'S DAY IN ALABAMA.**

**WHEREAS,** both Mother's Day and Father's Day have been observed annually for many years in special recognition and in honor of the sacrifice and love of parents for their children; and

**WHEREAS,** in 1979, the Congress, through legislation, desig-

nated that the first Sunday after Labor Day be observed as Grandparent's Day nationwide; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That in tribute to the special love of grandparents for their grandchildren, and in recognition of their continuing contributions to their families and to society, we hereby most strongly urge that Grandparent's Day be observed annually throughout the entire State of Alabama.

Approved February 23, 1984

Time: 4:45 P.M.

Act No. 84-6

S.J.R. 5—Senators Bennett, Cabaniss and Little

### SENATE JOINT RESOLUTION

**COMMENDING MISS VALERIE RHEA BENDALL AS NATIONAL MAID OF COTTON.**

WHEREAS, Miss Valerie Rhea Bendall was selected as the 1984 national Maid of Cotton in ceremonies last December 21, 1983 in Memphis, Tennessee, and

WHEREAS, Miss Bendall is only the third Alabamian to win the honor following Alice Corr in 1953 and Katy Sue Meredith in 1964, and

WHEREAS, Miss Bendall, daughter of Mr. and Mrs. James O. Bendall of Birmingham, was selected as Alabama's Maid of Cotton as a 21-year old senior at Auburn University majoring in hospital administration, and

WHEREAS, at Auburn, she served as rush chairman for Alpha Omicron Pi Sorority, was a Sigma Nu Little Sister and a member of Lambda Sigma Honorary, and

WHEREAS, at Auburn, she also made the Dean's List, served as a member of the Student Government Association's Academic Affairs Committee, was SGA secretary for public relations and served as a member of the SGA Executive Cabinet, and was secretary of the Health and Hospital Administration Organization, and

WHEREAS, she was chosen as Miss Glomerata for 1983, placed in the top five for Miss Homecoming for 1981, the top five for Miss Auburn for 1983 and was selected for Who's Who in American Colleges and Universities; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA,**



**BOTH HOUSES THEREOF CONCURRING**, that we do hereby commend and congratulate Miss Bendall on her selection as National Maid of Cotton and extend its deep appreciation for the distinct honor she has brought to her state, and

**BE IT FURTHER RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING**, that a copy of this resolution be sent to Miss Bendall with our very best wishes for the future.

Approved February 23, 1984

Time: 4:45 P.M.

Act No. 84-7

S.J.R. 6—Senators Bennett, Aldridge, Amari, Bailey, Barron, Bedford, Bedsole, Bishop, Cabaniss, Cooley, Corbett, Covington, deGraffenried, Denton, Dial, Dixon, Drinkard, Ellis, Figures, Foshee, Goodwin, Hand, Hilliard, Holmes, Langford, Little, Menton, Mitchem, Parsons, Pearson, Sanders, Smith (B), Smith (J), Strong and Teague

### SENATE JOINT RESOLUTION

#### MOURNING THE DEATH OF FORMER STATE REPRESENTATIVE TRAM SESSIONS.

WHEREAS, former State Representative Tram Sessions, who served four terms in the State House of Representatives ending in 1970, died January 25, 1984 at age 85, and

WHEREAS, Mr. Sessions whose 20 years in the Legislature distinguished himself as a knowledgeable and effective legislator for Jefferson County, and

WHEREAS, a former insurance executive, Mr. Sessions had a long career of public service which also included service on the Birmingham Park and Recreation Board and as past president of the Junior Chamber of Commerce, and

WHEREAS, Mr. Sessions was also a member of the Birmingham Quarterback Club, Sigma Alpha Epsilon Fraternity, University of Alabama Alumni Association, Redstone Club, American Legion and Elks Club, and

WHEREAS, during his collegiate career at the University of Al-

abama, Sessions played varsity football where he was chosen All-Southeastern Conference and was later inducted into the Alabama Sports Hall of Fame, and

WHEREAS, he was also a past member of the Board of Stewards at Highlands United Methodist Church and was a veteran of World War I, now

THEREFORE BE IT RESOLVED, that the Legislature of Alabama, both houses thereof concurring, mourn the passing of one of its most distinguished former members while noting that many of his contributions to his state live on, and be it finally

RESOLVED, that copies of this resolution be sent to his family and to the Jefferson County Legislative Office in Birmingham.

Approved February 23, 1984

Time: 4:45 P.M.

Act No. 84-8

S.J.R. 10—Senators Goodwin, Aldridge, Amari, Bailey, Barron, Bedford, Bedsole, Bennett, Bishop, Cabaniss, Cooley, Corbett, Covington, deGraffenried, Denton, Dial, Dixon, Drinkard, Ellis, Figures, Foshee, Hand, Hilliard, Holmes, Langford, Little, Menton, Mitchem, Parsons, Pearson, Sanders, Smith (B), Smith (J), Strong and Teague

### SENATE JOINT RESOLUTION

NAMING THE BRIDGE ACROSS LITTLE MULBERRY CREEK ON HIGHWAY 14 AT STATESVILLE, AUTAUGA COUNTY, ALABAMA, THE "BILL NICHOLS BRIDGE."

WHEREAS, though a native of Mississippi, U. S. Congressman Bill Nichols has been a resident of Sylacauga, Alabama, since infancy and is a graduate of Sylacauga High School; and

WHEREAS, as a student at Auburn University where he excelled both academically and athletically, Congressman Nichols earned a football scholarship, lettering for three years, and captained the 1940 team; he was extended membership in three honorary fraternities—Blue Key, Gamma Sigma Delta and Scab-

bard and Blade—and earned the B. S. and Master's degrees in 1939 and 1940, respectively; and

WHEREAS, Congressman Nichols declined a pro football contract to accept instead a position as the assistant county farm agent in Autauga County, but his planned career in agriculture, in keeping with his academic background, was interrupted by World War II; and

WHEREAS, in 1947, retired with the rank of captain and the recipient of the Bronze Star and the Purple Heart for distinguished service in combat, Bill Nichols returned to Sylacauga to enter private business and to become highly successful as a corporate executive; and

WHEREAS, Congressman Nichols, prior to his 1966 election to the U. S. House of Representatives, served in both the House and Senate of the Alabama Legislature where he earned the respect of his colleagues and constituents and was named by the Capitol Press Corps as "The most outstanding member of the Alabama Senate" in 1965; and

WHEREAS, during his first term in Washington, Congressman Nichols served on the House Agriculture Committee but, in 1968, he petitioned and received a seat on the House Armed Services Committee and has risen to a leadership position on the prestigious committee; and

WHEREAS, from the 90th Congress to the present 98th Congress, Bill Nichols' contributions to his district, state and nation have distinguished him as a true patriot and a leader among men; he has kept faith with the citizens of Alabama and, in appreciation, it is their desire that he be recognized for such extraordinary accomplishment on their behalf; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in tribute and in deep gratitude, we hereby name and designate the bridge across Little Mulberry Creek on Highway 14 at Statesville, Autauga County, Alabama, the "Bill Nichols Bridge."

BE IT FURTHER RESOLVED, That the proper authorities are directed to erect and maintain appropriate signs and markers so designating said bridge as the "Bill Nichols Bridge."

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Congressman Nichols as a memento of this honorary designation of the Alabama Legislature.

Approved February 23, 1984

Time: 4:45 P.M.

Act No. 84-9

S.J.R. 13—Senators Holmes, Aldridge, Amari, Bailey, Barron, Bedford, Bedsole, Bennett, Bishop, Cabaniss, Cooley, Corbett, Covington, deGraffenried, Denton, Dial, Dixon, Drinkard, Ellis, Figures, Foshee, Goodwin, Hand, Hilliard, Langford, Little, Menton, Mitchem, Parsons, Pearson, Sanders, Smith (B), Smith (J), Strong and Teague

# SENATE JOINT RESOLUTION

COMMENDING THE AUBURN UNIVERSITY TIGERS AS THE NUMBER ONE COLLEGIATE FOOTBALL TEAM IN AMERICA.

WHEREAS, Coach Pat Dye's Auburn University Tigers, Southeastern Conference Champions, finished their 1983 football season 11-1, following their Sugar Bowl victory over the University of Michigan; and

WHEREAS, Auburn's schedule, ranked by the NCAA as the most difficult in America, included nine of the post-season bowl teams, eight of whom suffered defeat at the hands of the Tigers; and

WHEREAS, War Eagle fans from coast to coast joined the New York Times in ranking Auburn University Number One, based on a computer analysis of team schedules which showed the Tigers beating teams with a combined winning percentage of .695, compared to .514 for AP's and UPI's top-ranked Miami, and .528 for the wire services' second place Cornhuskers; and

WHEREAS, further, it is the consensus of the Alabama Legislature that Auburn University is indeed the top collegiate team in the country, national champions in every sense of the title; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby commend the Auburn University Tigers as the Number One collegiate football team in America.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Coach Pat Dye and his national champions with a copy also provided for Auburn University.

Approved February 23, 1984

Time: 4:45 P.M.

Act No. 84-10

S.J.R. 14—Senator Holmes

# SENATE JOINT RESOLUTION

REQUESTING THE GOVERNOR TO PROCLAIM THE WEEK OF MAY 7, 1984, AS ALABAMA SMALL BUSINESS WEEK.

WHEREAS, the President of the United States of America, by proclamation, designated the week of May 8 through May 14, 1983, as Small Business Week, in special tribute to the outstanding contributions of the small businesswomen and businessmen of this nation, with the official theme "There's No Business Like Small Business"; and

WHEREAS, there are more than 14 million small businesses, as defined by the Small Business Administration, in the United States, and many of these small businesses are in Alabama, employing approximately 790,000 Alabamians; and

WHEREAS, statistics of the federal government indicate that these small businesses account for 38 percent of the gross national product of the United States, create two out of every three new jobs, and produce two and one-half times as many innovations per employee as large firms; and

WHEREAS, the entrepreneurship and productivity of small businesswomen and businessmen constitute the vital core of the American free enterprise system; and

WHEREAS, the economic health of Alabama depends, in large measure, on the prospects of the state's small businesses; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend and salute small business throughout the nation, most particularly those in Alabama, and the vitality of their free enterprise philosophy.

BE IT FURTHER RESOLVED, That we hereby request that the Governor proclaim the week of May 7, 1984, through May 15, 1984, inclusive, as Alabama Small Business Week, in special recognition of the contributions which small businesswomen and businessmen have made, and will continue to make, to our state.

RESOLVED FURTHER, That a copy of this resolution be forwarded to the Governor.

Approved February 23, 1984

Time: 4:45 P.M.

Act No. 84-11

S.J.R. 19—Senators Parsons, Aldridge, Cooley, Amari, Cabaniss, Bennett, Bailey, Barron, Bedford, Bedsole, Bishop, Corbett, Covington, deGraffenried, Denton, Dial, Dixon, Drinkard, Ellis, Figures, Foshee, Goodwin, Hand, Hilliard, Holmes, Langford, Little, Menton, Mitchem, Pearson, Sanders, Smith (B), Smith (J), Strong and Teague

### SENATE JOINT RESOLUTION

COMMENDING MR. THERMON PHILLIPS, A DISTRICT DIRECTOR OF U. S. STEEL.

WHEREAS, the June 1982 closing of U. S. Steel's Fairfield plant dealt a crushing blow to the economy of Jefferson County with reverberations felt statewide; unemployment reached record highs following U. S. Steel's production shutdown; and

WHEREAS, in late 1983, however, as signs of a recovering economy signaled hope for the unemployed, there were indications that U. S. Steel was considering reopening operations at the Fairfield plant; and

WHEREAS, it is to be noted with deep appreciation that Mr. Thermon Phillips, Director of U. S. Steel Works District 36, played an instrumental role in the discussions and negotiations relative to resumption of production at Fairfield; and

WHEREAS, Mr. Phillips worked diligently with Governor George Wallace, with Mr. C. B. Rich and other involved individuals to successfully reach an agreement to reopen, which decision was announced on December 24, 1983; and

WHEREAS, as a result of his sincere and cooperative efforts, reopening of the plant has provided 3500 jobs with the first steel

produced February 12, 1984; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in deep and sincere appreciation, we hereby most highly commend Mr. Thermon Phillips of U. S. Steel and direct that a copy of this resolution be forwarded to him in small token of our utmost esteem.

Approved February 23, 1984

Time: 4:45 P.M.

Act. No. 84-12

H.J.R. 5—Rep. Harvey

### HOUSE JOINT RESOLUTION

NAMING A PORTION OF U. S. HIGHWAY 231, FROM ONEONTA TO ROSA, IN BLOUNT COUNTY, ALABAMA, THE "RAY MARSH DRIVE."

WHEREAS, Mr. Claude Ray Marsh of Trafford, Blount County, Alabama, lost his life as a result of a tragic accident on January 11, 1981, at the early age of 48 years; and

WHEREAS, a prominent area businessman, Mr. Marsh also was a community and civic leader held in highest regard by the citizens of Blount County; his contributions, however, transcended local bounds to the statewide level as a member of the Board of the Alabama State Docks; and

WHEREAS, he further was a director of Central Bank, a faithful and active member of Center Hill Presbyterian Church, and was a member as well of the Oneonta Rotary Club and Locust Fork Masonic Lodge; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in gratitude and recognition of extraordinary and unselfish service, we hereby name and designate that portion of U.S. Highway 231, from Oneonta to Rosa, in Blount County, Alabama, the "Ray Marsh Drive."

BE IT FURTHER RESOLVED, That the proper authorities are directed to erect and maintain appropriate signs and markers designating said portion of U.S. Highway 231 as the "Ray Marsh Drive."

RESOLVED FURTHER, That in notification of this commemorative designation of the Legislature, a copy of this resolution shall be forwarded to the family of the late Claude Ray Marsh.

Approved February 29, 1984

Time: 4:35 P.M.

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Act No. 84-13

H.J.R. 21—Reps. Laird, Rice, Richardson

**HOUSE JOINT RESOLUTION**

**URGING THE REVENUE DEPARTMENT TO ACCEPT PERSONAL CHECKS FOR ISSUING CERTAIN LICENSES.**

WHEREAS, it has come to the attention of the Legislature of Alabama that the Department of Revenue requires that persons applying for motor vehicle licenses for interstate or intra-state truck travel must remit the fees with either a certified check or cash; and

WHEREAS, the cost of these licenses at times exceeds eight hundred dollars; and

WHEREAS, it is extremely inconvenient and dangerous to carry around these vast amounts of currency; now therefore

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we hereby urge that the Department of Revenue, upon presentation of proper identification, accept personal checks from applicants purchasing motor vehicle licenses for interstate or intra-state trucks.

**BE IT FURTHER RESOLVED,** That a copy of this resolution be sent to the Commissioner of the Department of Revenue that he may know of our wishes in this regard.

Approved February 29, 1984

Time: 4:35 P.M.

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Act No. 84-14

H.J.R. 28—Rep. Richardson

**HOUSE JOINT RESOLUTION**

**COMMENDING PISGAH HIGH SCHOOL'S CHAMPIONSHIP FOOTBALL TEAM.**

WHEREAS, The Alabama Legislature extends heartiest congratulations to the 1983 Pisgah High School Eagles on their outstanding football season and the Jackson County Championship; and

WHEREAS, scoring a phenomenal 381 total points in '83 and averaging 280 offensive yards per game, the Eagles posted a perfect



10-0 season record while allowing only two touchdowns to be scored against them all season long; and

WHEREAS, Head Coach Dale Pruitt, who directed the Eagles to their championship, was assisted by Coaches Bill Beard, Dwight Griffith and Keith Williams; and

WHEREAS, the Pisgah High School football team also enjoyed the support and encouragement of the faculty, students, parents and other fans within the community who enthusiastically cheered the Eagles to victory in each and every game; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend the Pisgah High School Eagles on their outstanding 1983 football season and the Jackson County Championship.

BE IT FURTHER RESOLVED, That in token of highest praise, a copy of this resolution shall be forwarded to Coach Dale Pruitt, on behalf of his staff and the entire team, with a copy also provided for appropriate school display.

Approved February 29, 1984

Time: 4:35 P.M.

Act No. 84-15

H.J.R. 29—Rep. Richardson

### HOUSE JOINT RESOLUTION

COMMENDING THE CITIZENS OF STEVENSON, ALABAMA, ON THE RESTORATION AND PRESERVATION OF THE STEVENSON RAILROAD DEPOT MUSEUM.

WHEREAS, the first railroad Depot in Stevenson, Alabama, built in the early 1850's, was burned at the outset of the War Between the States; the Union Army's occupation forces built a small supply depot on the site which was used throughout the war; and

WHEREAS, the third depot to occupy the same site was built in 1872 serving as a freight and passenger depot until passenger service was phased-out and the freight agency closed in 1976; and

WHEREAS, faced with the planned destruction of the depot, the Stevenson Bicentennial Committee initiated fund-raising efforts to save the building for community use and was ultimately successful in both acquiring the necessary funds and in achieving placement of the building on the National Register of Historic Places by the U.S. Department of the Interior; and

WHEREAS, the depot, rennovated in 1981, opened as a mu-

seum in June 1982 during a community-wide festival which is now an annual affair called "Stevenson Downtown Depot Days"; the Depot Museum is operated by the Stevenson Historical Society and supported primarily through donations, by income from "The Stevenson Story" by Eliza Mae Woodall and from annual dues of Friends of the Depot organization; and

WHEREAS, since its opening, the Stevenson Depot Museum has had some 5,000 visitors from 30 states and ten foreign nations; it has been featured in *Southern Living* and *Area* magazines, in numerous newspaper articles and on television, bringing much fame to both the Stevenson area and the entire State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend both the citizens and the Historical Society of Stevenson, Alabama, for the success of their efforts in the restoration and preservation of the community's historic depot as the Stevenson Depot Museum.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to the Society in praise and commendation of such outstanding accomplishment.

Approved February 29, 1984

Time: 4:35 P.M.

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Act No. 84-16

H.J.R. 30—Reps. Bryant, Cosby

### HOUSE JOINT RESOLUTION

DESIGNATING THE BELOIT COMMUNITY AS THE RECYCLE CAPITAL OF ALABAMA.

WHEREAS, the Beloit Community Organization, Inc., first founded some ten years ago as a ladies organization known as the "Help Self-Help Others Club," continues a number of worthwhile projects begun by its parent group, most particularly that of recycling on an organized and regular basis; and

WHEREAS, this original project has grown and extended into a number of areas which now include the conversion of throw-away items into useful articles which are in turn sold as a fund raising project; and

WHEREAS, during the past seven years, the club membership, which now includes men as well as women, has recycled tons of cop-

per, scrap iron, paper, aluminum and glass, and has made from scraps hundreds of items for sale including quilts, pillows, aprons and egg carton baskets; and

WHEREAS, the club also sponsors a successful Recycle Day, a joint community-county Clean-up Week and a Clean-up or Recycle Month; both collection and storage sites have been established to more efficiently work toward the organization's goal of a cleaner and more beautiful county and in keeping with the theme "Waste Not Want Not"; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in highest commendation of the leadership efforts and achievement of the Beloit Community Organization, Inc., in the area of recycling, we hereby name and designate the Community of Beloit as the Recycle Capital of Alabama.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Mr. Finis Harris, president, on behalf of the Club's membership and in testimony to this honorary designation of the Alabama Legislature.

Approved February 29, 1984

Time: 4:35 P.M.

Act No. 84-17

H.J.R. 31—Reps. Gaston, Kvalheim

### HOUSE JOINT RESOLUTION

#### MOURNING THE DEATH OF MR. OLAF A. SYLTIE OF MOBILE, ALABAMA.

WHEREAS, the Alabama Legislature notes with deep sorrow and regret the recent death of Mr. Olaf A. Syltie of Mobile, Alabama; and

WHEREAS, Mr. Syltie, who was a retired Lieutenant Colonel, United States Army Reserve, was a veteran of both World War II and the Korean Conflict; he was a graduate of Morehead State University in Kentucky with the B.S. degree, and of the University of Southern Mississippi where he earned a Master's degree; and

WHEREAS, Mr. Syltie worked for the public schools in Mobile County for 21 years and for 2 years, following retirement, as coordinator of Alabama Christian College in Mobile; his active educational career included service as assistant principal of Clark Middle School and Theodore High School, principal of Baker and Vigor High

Schools, and supervisor of the Mobile Public School System's warehouse; and

WHEREAS, in civic and community involvement, Mr. Syltie was a member of Saint Pauls Lutheran Church, member of the board of directors of the Mobile Epilepsy chapter and a trustee of Mobile Infirmary; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Mr. Olaf A. Syltie of Mobile, Alabama, and extend our very deepest sympathy to his wife, Mrs. Lena Middlebrook Syltie, daughter Ann Pierce and sons David and Dwayne Syltie to whom a copy of this resolution shall be sent in expression of our deep sorrow in their loss.

Approved February 29, 1984

Time: 4:35 P.M.

Act No. 84-18

H.J.R. 34—Rep. Starr

### HOUSE JOINT RESOLUTION

COMMENDING MR. PERCY ROSS, MINNEAPOLIS, MINNESOTA.

WHEREAS, Mr. Percy Ross, Minneapolis, Minnesota, known throughout the United States for his numerous and generous deeds toward his fellowman, has become known to us in that he has helped one of our own; and

WHEREAS, upon the receipt of a letter from Anita Venable, State Treasurer's Office, in which she expressed the need and desire for a special hearing aid for her daughter, "Tabby", who developed a case of bacterial meningitis during Christmas of 1981 at the age of four which left her totally deaf due to severe nerve damage; and

WHEREAS, Mr. Ross answered Anita's letter saying he understood how Tabby must feel, trying to adjust to a body aid and that he had arranged for Tabby to be tested and fitted with the best hearing aid available and not to worry about the cost because he was to pay all the expenses; now therefore;

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily commend Mr. Percy Ross for his gracious act of kindness in providing Tabby with the best hearing aid available to help her detect sound vibrations and so she can be like the other children at the

Children's Center for the Handicapped, where she attends school.

BE IT FURTHER RESOLVED, That Mr. Ross receive a copy of this resolution as a token of our appreciation and that Tabby receive a copy so she may know that we are also interested and care for her health and happiness.

Approved February 29, 1984

Time: 4:35 P.M.

Act No. 84-19

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H.J.R. 53—Reps. Ford, Junkins, Adams, Albright, Bachus, Beers, Biddle, Black, Blake, Blakeney, Boles, Bowling, Box, Brakefield, Britnell, Brooks, Browder, Bryant, Bugg, Burke, Buskey (James), Buskey (John), Butler, Campbell, Carothers, Carter, Clark (D), Clark (J), Clark (W), Coburn, Coleman, Cosby, Crow, Davis, Drake, Dutton, Escott, Faulk, Flowers, Fuller, Gaston, Goodwin, Gray, Grayson, Grimsley, Grouby, Hall, Hammett, Harper, Harvey, Hettinger, Holley, Holmes, Hooper, Horn, Johnson (RG), Johnson (Roy), Kennedy, Kvalheim, Laird, Lauderdale, Lindsey, McDowell, McKee, McMillan, McNair, Marietta, Martin, Mathis, Melton, Mikell, Mitchell, Moore, Newman, Nicholson, Onderdonk, Parker, Payne, Penry, Perdue, Poole, Pratt, Preuitt, Rains, Reed, Rice, Richardson, Rogers, Sasser, Seibels, Smith, Spratt, Starkey, Starr, Tanner, Thomas, Trammell, Turner,

Turnham, Venable, Warren,  
White (F), White (G),  
White (L), Zoghby

## HOUSE JOINT RESOLUTION

### MOURNING THE DEATH OF CAPTAIN JAMES A. "BUBBA" DAVIS.

WHEREAS, it is with a deep sense of sorrow and regret that the Alabama Legislature notes the untimely death on October 14, 1983 of James A. "Bubba" Davis, Captain in the Alabama Bureau of Investigation; and

WHEREAS, for more than thirty years Captain Davis served the people of this State in the Alabama Department of Public Safety; and

WHEREAS, Captain Davis was a courageous law enforcement officer who on numerous occasions placed his life in jeopardy to protect the people of this State, and who was on one occasion wounded in the line of duty; and

WHEREAS, Captain Davis was a tireless servant of the people who regularly worked untold hours and was never really "off duty";

WHEREAS, despite his tremendous workload and burdensome responsibilities, Captain Davis always had a kind word for those around him and never failed to set a sterling example for the many young law enforcement officers he trained and supervised; and

WHEREAS, the law-abiding people of this State are safer in their persons and property, and this State is a better place to live, because of Captain Davis' three decades of extraordinary service;

NOW BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the death of Captain James A. "Bubba" Davis.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to his wife, Mrs. Polly C. Davis, that she and their children may know of our sincerely shared sorrow in the loss of their husband and father, a distinguished Alabamian and a great law enforcement officer.

Approved February 29, 1984

Time: 4:35 P.M.

Act No. 84-20

H.J.R. 9—Reps. Gaston, Kvalheim

### HOUSE JOINT RESOLUTION

COMMENDING MR. DAVID D. ROBERTS OF MOBILE, PRESIDENT ELECT OF THE NATIONAL ASSOCIATION OF REALTORS FOR 1984.

WHEREAS, the recent election of Mr. David D. Roberts of Mobile as President Elect of the National Association of Realtors for 1984 is a mark beyond measure of personal achievement; and

WHEREAS, Mr. Roberts, a graduate of Auburn University, is a retired Colonel in the United States Air Force Reserve and, while on active duty during World War II, was the recipient of such distinguished medals as the Bronze Star and the Croix de Guerre; and

WHEREAS, professionally, Mr. Roberts was honored in 1968 as the Alabama Realtor of the Year and in service to his chosen field, is a past president of both the Mobile County Board of Realtors and the Alabama Association of Realtors; in 1979, he served on the national level as Chairman of NAR's Legislative Committee; and

WHEREAS, he further has amassed an enviable record of civic and community involvement such as the past presidency of both the Loop Exchange Club and the National Junior Miss Pageant; he currently is a member of the advisory committee of the Salvation Army and is a past president and current board member of the Mobile County Better Business Bureau; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby express highest commendation of the accomplishments of Mr. David D. Roberts, president of Roberts Brothers Realtors of Mobile Alabama.

BE IT FURTHER RESOLVED, That Mr. Roberts receive a copy of this resolution that he and his family may know of our sincere warm praise and personal regard.

Approved February 29, 1984

Time: 4:35 P.M.

Act No. 84-21

H.J.R. 18—Reps. Turnham, Adams,  
Albright, Bachus, Beers,  
Biddle, Black, Blake,  
Blakeney, Boles,

Bowling, Box,  
 Brakefield, Britnell,  
 Brooks, Browder,  
 Bryant, Bugg, Burke,  
 Buskey (James),  
 Buskey (John), Butler,  
 Campbell, Carothers,  
 Carter, Clark (D), Clark  
 (J), Clark (W), Coburn,  
 Coleman, Cosby, Crow,  
 Davis, Drake, Dutton,  
 Escott, Faulk, Flowers,  
 Ford, Fuller, Gaston,  
 Goodwin, Gray,  
 Grayson, Grimsley,  
 Grouby, Hall,  
 Hammett, Harper,  
 Harvey, Hettinger,  
 Holley, Holmes,  
 Hooper, Horn, Johnson  
 (RG), Johnson (Roy),  
 Junkins, Kennedy,  
 Kvalheim, Laird,  
 Lauderdale, Lindsey,  
 McDowell, McKee,  
 McMillan, McNair,  
 Marietta, Martin,  
 Mathis, Melton, Mikell,  
 Mitchell, Moore,  
 Newman, Nicholson,  
 Onderdonk, Parker,  
 Payne, Penry, Perdue,  
 Poole, Pratt, Preuitt,  
 Rains, Reed, Rice,  
 Richardson, Rogers,  
 Sasser, Seibels, Smith,  
 Spratt, Starkey, Starr,  
 Tanner, Thomas,  
 Trammell, Turner,  
 Venable, Warren, White  
 (F), White (G), White  
 (L), Zoghby

## HOUSE JOINT RESOLUTION

COMMENDING DR. J. MICHAEL SPROTT FOR MERITO-  
 RIOUS SERVICE WITH AUBURN UNIVERSITY'S EXTEN-



## SION PROGRAM.

WHEREAS, it is with highest commendation that the Alabama Legislature recognizes Dr. J. Michael Sprott for meritorious service with the Auburn Cooperative Extension Service from September 1, 1975 to December 31, 1983, and for the past three years as Dean and Director of the program; and

WHEREAS, during his distinguished tenure, Dr. Sprott proved invaluable to the many programs of the Extension Service, working tirelessly at all times and in total dedication to the awesome responsibilities of his positions; and

WHEREAS, among the many major indicators of the Service's progress under Dr. Sprott are the establishment of competency standards for county and specialist staff and the development of uniform standards for county and specialist staffing patterns; and

WHEREAS, Dr. Sprott also is to be cited for his significant leadership role in working with the Alabama 4-H Foundation in the construction of the Alabama 4-H Youth Development Center in Shelby County, and for his involvement of local people in planning Extension programs through county Extension councils which are active in all 67 counties with membership exceeding 15,000; and

WHEREAS, Dr. Michael Sprott has indeed earned the respect, admiration and trust of all citizens of this state for his commitment to and support of the agricultural industry in Alabama; his awards and honors which attest to said commitment are numerous, and include such distinctions as Progressive Farmer's 1979 Man of the Year in Service to Alabama Agriculture; and

WHEREAS, Dr. Sprott's professional affiliations also are quite lengthy and his creditability is even further strengthened through authorship of some twenty or more technical and Extension-oriented publications; he additionally is widely known for his involvement in leadership, advisory and consultant capacities on both regional, and national levels; and

WHEREAS, a native of Lansing, Michigan, Dr. Sprott holds the B.S. and M.S. degrees from the University of Arkansas and acquired his PhD. from Texas A & M University; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein most highly praise and commend Dr. J. Michael Sprott for outstanding achievement and express our deepest gratitude for his contributions to the Agricultural Industry in Alabama.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Dr. Sprott in small token of our utmost regard.

Approved February 29, 1984

Time: 4:35 P.M.

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Act No. 84-22

H.J.R. 19—Rep. Turnham

HOUSE JOINT RESOLUTION

**MOURNING THE DEATH OF MR. E. L. STEWART OF TALLADEGA, ALABAMA.**

WHEREAS, the Legislature of Alabama grievously records the death of Mr. E. L. Stewart of Talladega, Alabama, on December 26, 1983; and

WHEREAS, a native of Randolph County, Mr. Stewart earned the B.S. and M.S. degrees in agriculture from Auburn University and taught vocational agriculture for 11 years at Chambers County High School; and

WHEREAS, he joined the Alabama Cooperative Extension Service in 1944, beginning his career in Macon County as Assistant County Agent; he transferred to Chambers in 1946 and was promoted subsequently to the position of County Extension Chairman, serving in said capacity until his retirement in June 1973; and

WHEREAS, Mr. Stewart, a resident of Talladega since 1974, is survived by his beloved wife, Mrs. Lucile Stewart, by two daughters, a son and other family members, whose grief we truly share and to whom we extend our very deepest sympathy; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we are deeply saddened by the death of Mr. E. L. Stewart of Talladega and direct that a copy of this resolution be forwarded to his family that they may know of our concern for them in their time of such deep sorrow.

Approved February 29, 1984

Time: 4:35 P.M.

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Act No. 84-23

H.J.R. 20—Rep. Laird

HOUSE JOINT RESOLUTION

**REQUESTING THE GOVERNOR TO PROCLAIM THE WEEK OF MAY 7, 1984, AS ALABAMA SMALL BUSINESS WEEK.**

WHEREAS, the President of the United States of America, by proclamation, designated the week of May 8 through May 14, 1983, as Small Business Week, in special tribute to the outstanding contributions of the small businesswomen and businessmen of this nation, with the official theme "There's No Business Like Small Business"; and

WHEREAS, there are more than 14 million small businesses, as defined by the Small Business Administration, in the United States, and many of these small businesses are in Alabama, employing approximately 790,000 Alabamians; and

WHEREAS, statistics of the federal government indicate that these small businesses account for 38 percent of the gross national product of the United States, create two out of every three new jobs, and produce two and one-half times as many innovations per employee as large firms; and

WHEREAS, the entrepreneurship and productivity of small businesswomen and businessmen constitute the vital core of the American free enterprise system; and

WHEREAS, the economic health of Alabama depends, in large measure, on the prospects of the state's small businesses; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend and salute small business throughout the nation, most particularly those in Alabama, and the vitality of their free enterprise philosophy.

BE IT FURTHER RESOLVED, That we hereby request that the governor proclaim the week of May 7, 1984, through May 15, 1984, inclusive, as Alabama Small Business Week, in special recognition of the contributions which small businesswomen and businessmen have made, and will continue to make, to our state.

RESOLVED FURTHER, That a copy of this resolution be forwarded to the Governor.

Approved February 29, 1984

Time: 4:35 P.M.

Britnell, Brooks, Browder,  
 Bryant, Bugg, Burke, Buskey  
 (James), Buskey (John), Butler,  
 Campbell, Carothers, Carter,  
 Clark (D), Clark (J), Clark  
 (W), Coburn, Coleman, Cosby,  
 Crow, Davis, Drake, Dutton,  
 Escott, Faulk, Flowers, Ford,  
 Fuller, Gaston, Goodwin, Gray,  
 Grayson, Grimsley, Hall,  
 Hammett, Harper, Harvey,  
 Hettinger, Holley, Holmes,  
 Hooper, Horn, Johnson (RG),  
 Johnson (Roy), Junkins,  
 Kennedy, Kvalheim, Laird,  
 Lauderdale, Lindsey,  
 McDowell, McKee, McMillan,  
 McNair, Marietta, Martin,  
 Mathis, Melton, Mikell,  
 Mitchell, Moore, Newman,  
 Nicholson, Onderdonk, Parker,  
 Payne, Penry, Perdue, Poole,  
 Pratt, Preuitt, Rains, Reed,  
 Rice, Richardson, Rogers,  
 Sasser, Seibels, Smith, Spratt,  
 Starkey, Starr, Tanner,  
 Thomas, Trammell, Turner,  
 Turnham, Venable, Warren,  
 White (F), White (G), White  
 (L), Zoghby

## HOUSE JOINT RESOLUTION

NAMING THE BRIDGE ACROSS LITTLE MULBERRY  
 CREEK ON HIGHWAY 14 AT STATESVILLE, AUTAUGA  
 COUNTY, ALABAMA, THE "BILL NICHOLS BRIDGE".

WHEREAS, though a native of Mississippi, U.S. Congressman  
 Bill Nichols has been a resident of Sylacauga, Alabama, since in-  
 fancy and is a graduate of Sylacauga High School; and

WHEREAS, as a student at Auburn University where he ex-  
 celled both academically and athletically, Congressman Nichols  
 earned a football scholarship, lettering for three years, and  
 captained the 1940 team; he was extended membership in three  
 honorary fraternities—Blue Key, Gamma Sigma Delta and Scab-  
 bard and Blade—and earned the B.S. and Master's degrees in 1939  
 and 1940, respectively; and

WHEREAS, Congressman Nichols declined a pro football contract to accept instead a position as the assistant county farm agent in Autauga County, but his planned career in agriculture, in keeping with his academic background, was interrupted by World War II; and

WHEREAS, in 1947, retired with the rank of captain and the recipient of the Bronze Star and the Purple Heart for distinguished service in combat, Bill Nichols returned to Sylacauga to enter private business and to become highly successful as a corporate executive; and

WHEREAS, Congressman Nichols, prior to his 1966 election to the U.S. House of Representatives, served in both the House and Senate of the Alabama Legislature where he earned the respect of his colleagues and constituents and was named by the Capitol Press Corps as "The most outstanding member of the Alabama Senate" in 1965; and

WHEREAS, during his first term in Washington, Congressman Nichols served on the House Agriculture Committee but, in 1968, he petitioned and received a seat on the House Armed Services Committee and has risen to a leadership position on the prestigious committee; and

WHEREAS, from the 90th Congress to the present 98th Congress, Bill Nichols' contributions to his district, state and nation have distinguished him as a true patriot and a leader among men; he has kept faith with the citizens of Alabama and, in appreciation, it is their desire that he be recognized for such extraordinary accomplishment on their behalf; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in tribute and in deep gratitude, we hereby name and designate the bridge across Little Mulberry Creek on Highway 14 at Statesville, Autauga County, Alabama, the "Bill Nichols Bridge."

BE IT FURTHER RESOLVED, That the proper authorities are directed to erect and maintain appropriate signs and markers so designating said bridge as the "Bill Nichols Bridge."

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Congressman Nichols as a memento of this honorary designation of the Alabama Legislature.

Approved February 29, 1984

Time: 4:35 P.M.

Act No. 84-25

H.J.R. 23—Reps. Drake, Clark (J), Adams, Albright, Bachus, Beers, Biddle, Black, Blake, Blakeney, Boles, Bowling, Box, Brakefield, Britnell, Brooks, Browder, Bryant, Bugg, Burke, Buskey (James), Buskey (John), Butler, Campbell, Carothers, Carter, Clark (D), Clark (W), Coburn, Coleman, Cosby, Crow, Davis, Dutton, Escott, Faulk, Flowers, Ford, Fuller, Gaston, Goodwin, Gray, Grayson, Grimsley, Grouby, Hall, Hammett, Harper, Harvey, Hettinger, Holley, Holmes, Hooper, Horn, Johnson (RG), Johnson (Roy), Junkins, Kennedy, Kvalheim, Laird, Lauderdale, Lindsey, McDowell, McKee, McMillan, McNair, Marietta, Martin, Mathis, Melton, Mikell, Mitchell, Moore, Newman, Nicholson, Onderdonk, Parker, Payne, Penry, Perdue, Poole, Pratt, Preuitt, Rains, Reed, Rice, Richardson, Rogers, Sasser, Seibels, Smith, Spratt, Starkey, Starr, Tanner, Thomas, Trammell, Turner, Turnham, Venable, Warren, White (F), White (G), White (L), Zoghby

### HOUSE JOINT RESOLUTION

**MOURNING THE DEATH OF FORMER STATE REPRESENTATIVE IRA DRAYTON PRUITT OF LIVINGSTON, ALABAMA.**

WHEREAS, the Legislature of Alabama grievously records the death of Mr. Ira Drayton Pruitt of Livingston, Alabama, on February 6, 1984, at the age of 79 years; and

WHEREAS, a native of Pine Hill, Alabama, where he was educated in the public schools, Mr. Pruitt also attended Marion Mili-

tary Institute and the University of Alabama, receiving a bachelor of law degree from the University in 1934, whereupon he entered the private practice of law in Livingston and, at the time of his death, was in law partnership with his son, Drayton Pruitt, a renowned jurist; and

WHEREAS, Mr. Pruitt, who was former Circuit Solicitor of the 17th Judicial Circuit from 1940 to 1944, and a member of the Livingston Town Council from 1936 to 1951, was elected to the Alabama House of Representatives in 1944; he subsequently was re-elected to seven consecutive terms for a total of 30 years, representing the constituents of Alabama's Twenty-seventh House District from Sumter, Marengo and Perry Counties; and

WHEREAS, Representative Pruitt was unquestionably a man of outstanding accomplishment; not only was he a distinguished jurist, but and exemplary public servant to whom the State of Alabama is profoundly indebted; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we mourn, we give thanks for the life of Ira Drayton Pruitt of Livingston, Alabama, a true statesman and a distinguished Alabamian.

BE IT FURTHER RESOLVED, That in expression of sincere and deepest sympathy, copies of this resolution shall be sent to Mr. Pruitt's beloved wife, Mrs. Elise C. Pruitt; to their son, Ira Drayton Pruitt, Jr., and to other family members whose grief and sorrow we truly share.

Approved February 29, 1984

Time: 4:35 P.M.

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Act No. 84-26

H.J.R. 35—Rep. Newman

### HOUSE JOINT RESOLUTION

COMMENDING MR. AND MRS. VIRGIL HUBBERT ON THEIR FIFTIETH WEDDING ANNIVERSARY.

WHEREAS, the Alabama Legislature notes with pleasure the Golden Wedding Anniversary, December 24, 1983, of Mr. and Mrs. Virgil Hubbert of Fayette, Alabama; and

WHEREAS, in the sight of God, Virgil Hubbert of Fayette and Pearl Davis of Anniston, Alabama, were joined in wedlock on December 24, 1933, and these two fine people, forsaking all others, have remained in said Holy state for 50 years; and

WHEREAS, adhering to Biblical admonition, they have lived their lives as one, devoted each to the other, and have been steadfastly faithful to their marriage vows, setting an example to be emulated by all couples who, in marriage, pledge themselves to one another until parted by death; and

WHEREAS, Mr. and Mrs. Hubbert, the parents of a son, Paul Hubbert, and the loving grandparents of two fine grandchildren, were honored on this special occasion with a reception held in their home on December 18, and hosted by their son and his wife, Ann; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with family and friends in congratulating this exemplary couple of Fayette, Alabama, and wish them many more happy years together in their union blessed by God, and a marriage of Christian dedication and morality.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Mr. and Mrs. Hubbert that they may know of our congratulations and warm best wishes.

Approved February 29, 1984

Time: 4:35 P.M.

Act No. 84-27

H.J.R. 36—Rep. Bugg

COMMENDING EMMA SANSOM'S FREDDIE WEYGAND,  
STATE 3A PLAYER OF THE YEAR.

WHEREAS, Emma Sansom High School's wide receiver and safety, Freddie Weygand, was named State 3A Player of the Year, a fitting and well-deserved designation based on his outstanding performance during the 1983 season; and

WHEREAS, a six-two, 180 pound senior, Freddie Weygand played a decisive role in Emma Sansom's 13-1 season record and its runner-up position for the State 3A Title; and

WHEREAS, Freddie Weygand's '83 record shows 80 receptions for 1357 yards and 14 touchdowns; 15 interceptions and one T.D.; and three kick-off returns and one punt return for four more scores, or a total of 19 touchdowns for the season; and

WHEREAS, not only is Freddie Weygand an outstanding athlete, but an excellent student as well, an accomplishment for which he is to be most highly praised; now therefore,



**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we herein express sincerest commendation of scholar-athlete Freddie Weygand of Gadsden, Alabama; we further extend heartiest congratulations on his State 3A Player of the Year Award and direct that he receive a copy of this resolution with copies also forwarded to his parents, Fred and Joan Weygand, and to Emma Sansom High School.

Approved February 29, 1984

Time: 4:35 P.M.

Act No. 84-28

H.J.R. 38—Reps. Mikell, Venable

### HOUSE JOINT RESOLUTION

**MOURNING THE DEATH OF THE REVEREND R. LEE FRANKLIN OF MILLBROOK, ALABAMA.**

WHEREAS, it is with deep sadness and regret that the Alabama Legislature records the death of the Reverend R. Lee Franklin of Millbrook, Alabama, on December 9, 1983, at the age of 76 years; and

WHEREAS, the Reverend Franklin, who grew up in Center Point, Alabama, where he later worked in his father's business, entered the ministry at the age of 36 to retire in November 1980, having remained steadfastly faithful to his call to spread the Gospel of Christ; and

WHEREAS, a resident of Millbrook since 1957, the Reverend Franklin served two pastorates at Coosada Baptist Church—from 1959 to 1965, and again from August 1979 until his retirement; and

WHEREAS, following his active ministry, the Reverend Franklin, who also was a Shakespearean scholar and raconteur, traveled widely on speaking engagements throughout Alabama, Tennessee and Mississippi; he brought joy and laughter to his audiences and left with them messages to be cherished; and

WHEREAS, it was from the pulpit and through his pastoral duties, however, that the Reverend Franklin best served his Lord; he possessed the very unique ability to bring his flock in personal closeness to God and their Savior, Christ Jesus, enabling them to forget their worldly cares and materialistic obsessions and, instead, to think totally of His "Blessed Assurance. . ."; and

WHEREAS, the Reverend R. Lee Franklin was indeed a blessing to his community, to his congregations, and above all to his be-

loved family: his wife, Mrs. Macie Franklin; their two daughters and two sons; their eight grandchildren; and other family members whose sorrow we truly share; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of the Reverend R. Lee Franklin and extend our deepest sympathy to his family to whom a copy of this resolution shall be sent.

Approved February 29, 1984

Time: 4:35 P.M.

Act No. 84-29

H.J.R. 39—Rep. White (L)

### HOUSE JOINT RESOLUTION

COMMENDING MRS. ELLEN ADAMS FOR OUTSTANDING SERVICE IN THE HEALTH CARE FIELD.

WHEREAS, Mrs. Ellen Adams is a true pioneer in the field of health care service in our state, having opened her first nursing home facility in November 1967 in Alexander City, Alabama; and

WHEREAS, the 25-bed capacity of the facility soon proved inadequate and the present home, dedicated in February 1975, has since expanded from 72 to a current total of 88 beds; and

WHEREAS, Mrs. Adams, in active administration of the home for the past 17 years, has truly dedicated her life, even personal resources, to the care of those in her charge; and

WHEREAS, she is indeed a very unique individual who serves through genuine concern and is totally committed to the philosophy that "her" patients come first; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Mrs. Ellen Adams of Alexander City, Alabama, for outstanding service in the health care field in our state.

BE IT FURTHER RESOLVED, That Mrs. Adams receive a copy of this resolution that she may know of the Legislature's sincere praise of her accomplishments, and that she may be further aware of our gratitude for the dignity, love, respect and care she has provided for so many of the elderly in our state.

Approved February 29, 1984

Time: 4:35 P.M.

Act No. 84-30

H. 130—Rep. Laird

## AN ACT

To authorize the governing body of Randolph County, Alabama, to levy and collect special county privilege and license taxes, paralleling the state sales taxes provided for in Division 1 of Article I of Chapter 23 of Title 40 of the Code of Alabama 1975, as amended and special county excise taxes paralleling the state use taxes provided for in Article 2 of Chapter 23 of Title 40 of the Code of Alabama 1975, as amended; to specify the rates at which such taxes may be levied; to provide for the ascertainment, collection, payment, and distribution and use of the proceeds of the said taxes if levied by the said governing body, and for the enforcement of this act by the State Department of Revenue; to specify the maximum duration for which any such taxes may be levied; to provide for the use of said proceeds; to provide that the proceeds of such tax shall be used to pay the cost of constructing, furnishing and maintaining a county jail and/or a county courthouse; to prescribe penalties and fix punishment for violations of this act; to provide for the expiration of those taxes levied and imposed under authority of this act; to make the provisions of this Act retroactive to January 1, 1984; and to provide for the collections of such taxes.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following words, terms and phrases as used in this Act shall have the following respective meanings except where the context clearly indicates a different meaning:

“Commissioner” means the Commissioner of Revenue of the State.

“County” means Randolph County in the State of Alabama.

“County Facilities” means (a) any land, building, equipment and any other facility or facilities necessary or useful in the housing, confinement, detention, feeding, treatment, rehabilitation and training of persons held in lawful custody, and (b) any land, building, equipment or other facility useful as a county courthouse building.

“Fiscal Year” means the period commencing on October 1 of each calendar year and ending on September 30 of the next succeeding calendar year.

“Month” means a calendar month.

“Quarterly Period” means the period of three months ending on the last day of each March, June, September and December.

“Registered Seller” means the person registered with the State Department of Revenue pursuant to the State Use Tax Statutes or licenses under the State Sales Tax Statutes.

“Securities” means an issue of bonds, warrants or other securities hereafter issued by the county, or any agency or instrumentality of the county (such as a county public building authority), for the purpose of financing all or a portion of the costs of acquiring, con-

structing, improving and equipping County Facilities (including land acquisition costs).

“State” means the State of Alabama.

“State Department of Revenue” means the Department of Revenue of the State.

“State Sales Tax” means the tax or taxes imposed by the State Sales Tax Statutes.

“State Sales Tax Statutes” means Division 1 of Article I of Chapter 23 of Title 40 of the Code of Alabama 1975, as amended, including all other statutes of the State which expressly set forth any exemptions from the computation of the taxes levied in said Division 1 and all other statutes which expressly apply to, or purport to affect, the administration of said Division 1 and the incidence and collection of the taxes imposed therein.

“State Use Tax” means the tax or taxes imposed by the State Use Tax Statutes.

“State Use Tax Statutes” means Article 2 of Chapter 23 of Title 40 of the Code of Alabama 1975, as amended, including all other statutes of the State which expressly set forth any exemptions from the computation of the tax levied in said Article 2 and all other statutes of the State which expressly apply to, or purport to affect, the administration of said Article 2 and the incidence and collection of the taxes imposed therein.

Except where another meaning is clearly indicated by the context, all definitions set forth in the State Sales Tax Statutes and the State Use Tax Statutes shall be effective as definitions of the words, terms and phrases used in this Act. All words, terms and phrases used herein, other than those hereinabove specifically defined, shall have the respective meanings ascribed to them in the State Sales Tax Statutes and the State Use Tax Statutes and shall have the same scope and effect that the same words, terms and phrases have where used in the State Sales Tax Statutes and the State Use Tax Statutes.

**Section 2.** The governing body of the county is hereby authorized to levy and impose in the county, in addition to all other taxes of every kind now imposed by law, and to collect as herein provided, a privilege or license tax on account of the business activities and in the amount to be determined by the application of rates against gross sales or gross receipts, as the case may be, upon every person, firm or corporation (including the State of Alabama, the University of Alabama, Auburn University and all other institutions of higher learning in the State, whether such institutions be denomi-

national, state, county or municipal institutions, any association or other agency or instrumentality of such institutions) engaged or continuing within the county in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character (not including, however, bonds or other evidences of debts or stocks, nor sales of materials and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, barges, ships and other watercraft of over 50 tons burden) or conducting places of amusement in the county at the rate of one-half of one percent of the gross proceeds of sales of the business.

There are exempted, however, from the provisions of this section and from the computation of the amount of the taxes authorized to be imposed in this section, the gross receipts of any business and the gross proceeds of all sales which are presently exempted under the State Sales Tax Statutes from the computation of the amount of the State Sales Tax.

**Section 3.** The governing body of the county is hereby authorized to levy and impose excise taxes on the storage, use or other consumption of property in the county as hereinafter provided in this section:

(a) An excise tax is hereby authorized to be levied and imposed on the storage, use or other consumption in the county of tangible personal property (not including, however, materials and supplies bought for use in fulfilling a contract for the painting, repairing or reconditioning of vessels, barges, ships and other watercraft of more than 50 tons burden) purchased at retail on or after the effective date of such tax, for the storage, use or other consumption in the county on or after the effective date of such tax, at the rate of one-half of one percent of the sales price of such property.

There are exempted from the provisions of this section, and from the taxes authorized to be imposed by this section, the storage, use or other consumption of property, the storage, use or other consumption of which is presently exempted under the State Use Tax Statutes from the State Use Tax. Subject to those exemptions, every person storing or using or otherwise consuming in the county tangible personal property purchased at retail on or after the effective date of such taxes shall be liable for the taxes authorized to be imposed by this section, and the liability shall not be extinguished until the tax has been paid by such person; provided however, that a receipt from the Registered Seller given pursuant to Section 6 of this Act to the purchaser of any property to be used, stored or consumed in the county shall be sufficient to relieve the purchaser from further liability for a tax to which such receipt may refer.

**Section 4.** The sales taxes authorized to be levied in Section 2 of this Act shall be paid to and collected by the State Department of Revenue at the same time as and along with the payment and collection of the State Sales Tax; and the use taxes authorized to be levied in Section 3 of this Act shall be paid to and collected by the State Department of Revenue at the same time as and along with the payment and collection of the State Use Tax.

**Section 5.** The taxes authorized to be imposed by this Act shall constitute a debt due the county and may be collected by civil suit, in addition to all other methods provided by law and in this Act. The said taxes, together with interest and penalties with respect thereto, shall constitute and be secured by a lien upon the property of any person from whom said taxes are due or who is required to collect said taxes. All the provisions of the revenue laws of the State which apply to the enforcement of liens for license taxes due the State shall apply fully to the collection of the taxes herein authorized to be levied, and the State Department of Revenue, for the use and benefit of the county, shall collect such taxes and enforce this Act and shall have and exercise for such collection and enforcement all rights and remedies that the State Department of Revenue has for collection of the State Sales Tax and the State Use Tax. The State Department of Revenue shall have full authority to employ such special counsel as it deems necessary from time to time to enforce collection of the taxes authorized to be levied by this Act and otherwise to enforce the provisions of this Act, including the institution, prosecution and defense of any litigation involving this Act; and the said Department shall pay such special counsel such fees as it deems necessary and proper from the proceeds of the taxes collected by it hereunder.

**Section 6.** All provisions of the State Sales Tax Statutes with respect to payment, assessment and collection of the State Sales Tax, making of monthly reports and keeping and preserving records with respect thereto, interest after the due date of said tax, penalties for failure to pay the said tax, make reports or otherwise comply with the State Sales Tax Statutes, the promulgation of rules and regulations with respect to the state sales tax, and the administration and enforcement of the State Sales Tax Statutes, which are not inconsistent with the provisions of this Act, when applied to the sales tax authorized to be levied in Section 2 hereof, shall apply to the sales tax authorized to be levied in the said Section 2; and all provisions of the State Use Tax Statutes with respect to payment, assessment and collection of the State Use Tax, making quarterly reports and keeping and preserving records with respect thereto, interest after the due date of the State Use Tax, penalties for failure to pay said tax, make reports or otherwise to comply with the State

Use Tax Statutes, the promulgation of rules and regulations with respect to the State Use Tax and the administration and enforcement of the State Use Tax Statutes, which are not inconsistent with the provisions of this Act, when applied to the use tax authorized to be levied in Section 3 hereof, shall apply to the use tax authorized to be levied in the said Section 3. The Commissioner and the State Department of Revenue shall have and exercise the same powers, duties and obligations, with respect to the taxes herein authorized to be levied, that are imposed on the Commissioner and the said department by the State Sales Tax Statutes and the State Use Tax Statutes. All provisions of the State Sales Tax Statutes and the State Use Tax Statutes that are made applicable by this Act to the taxes herein authorized to be levied and to the administration of this Act are incorporated herein by reference and made a part hereof as if fully set forth herein.

**Section 7.** The State Department of Revenue shall charge the county, for collecting the taxes authorized to be levied herein, the costs of the said department in collecting the said taxes; provided such charge shall not, in any event, exceed ten percent of the total amount of the taxes collected hereunder. Such charge for collecting the said taxes for the county may be deducted each month from the tax proceeds collected before the amount of the said proceeds due the county for that month is certified as provided in this section. The commissioner shall pay into the state treasury all taxes collected under this Act, as such taxes are received by the State Department of Revenue; and on or before the first day of each successive month (commencing with the month next succeeding the month in which the said department makes the first collection of any of the taxes authorized to be levied hereunder) the Commissioner shall certify to the state comptroller the amount of taxes collected under the provisions of this Act and paid by him into the state treasury for the benefit of the county during the month immediately preceding the making of such certificate; provided, however, that before certifying the amount of the taxes paid into the state treasury for the benefit of the county during each month, the Commissioner may deduct from the taxes collected hereunder in said month the charges due the said department for collection of the said taxes. It shall be the duty of the state comptroller to issue his warrant each month, payable to the county, in an amount equal to the amount so certified by the Commissioner as having been collected for the use of the county.

**Section 8.** The entire proceeds derived by the county from the taxes herein authorized to be levied (including any income derived from the investment of such proceeds) shall, subject to the provisions of Section 9 of this Act, be applied and used as follows:

- (a) If no securities have been issued and are then outstanding

and if the acquisition, construction and equipment of the County Facilities have not been completed, the entire proceeds shall be used for the purpose of paying costs of acquiring, constructing and equipping the County Facilities (including land acquisition costs), or both, or accumulated for subsequent use therefor;

(b) if no Securities have been issued and are then outstanding and if the acquisition, construction and equipment of the County facilities have been completed but the costs thereof have not been fully paid, the entire proceeds shall be used for the purpose of paying such costs;

(c) if any Securities have been issued and are then outstanding but if the acquisition, construction and equipment of the County Facilities have not been completed, the entire proceeds shall be used for payment of the principal of and the interest (and premium, if any) on such securities (or, if such securities were not issued by the county but rather by an agency or instrumentality of the county and are payable from revenues to be derived by such agency or instrumentality from the leasing of the County Facilities to the county, for payment of any rentals that may become due to such agency or instrumentality by the county);

(d) if any Securities have been issued and are then outstanding and if the acquisition, construction and equipment of the County Facilities have been completed, the said proceeds shall be used for payment of the principal of and the interest (and premium, if any) on the Securities (or, if such securities were not issued by the county but rather by an agency or instrumentality of the county and are payable from revenues to be derived by such agency or instrumentality from the leasing of the County Facilities to the county, for payment of any rentals that may become due to such agency or instrumentality by the county); and

(e) if any Securities have been issued but none thereof are then outstanding and unpaid, the entire proceeds shall be used for payment of the costs of operating and maintaining the County Facilities. In the event the "County Facilities Building Fund" described in the amendment to the Constitution of Alabama of 1901 proposed by the Act of the Legislature of Alabama introduced as House Bill 17 at the 1983 Third Special Session of the Legislature of Alabama is established pursuant to ratification of said proposed amendment by the qualified electors of Alabama, the governing body of the County may pay such proceeds into said Fund for application and use as set out herein.

If at any time the County is required by the provisions of this Section 8 to use all or a specified portion of the proceeds from the taxes herein authorized to be levied for the payment of debt service



on Securities (including rentals related thereto) and if at such time the County has paid or made full provision for the payment of all debt service maturing during the then current fiscal year with respect to the Securities (including rentals related thereto), the County shall apply all or such specified portion of such tax proceeds received during the remainder of such fiscal year to prepayment of such Securities (including any rentals required therefor), it being the intention of this Act to provide for the retirement of such Securities as promptly as practicable.

**Section 9.** If the governing body of the County elects to levy or impose any of the taxes herein authorized to be levied and imposed, it shall specify, as the effective date of such levy, as January 1, 1984 or the first day of any calendar month following such levy; provided that such governing body may not collect any such taxes unless the effective date of such levy is at least thirty (30) calendar days after the date of such levy. The maximum duration of the levy of any of the taxes herein authorized to be levied and imposed shall not be beyond July 31, 1994, subject to earlier termination as follows:

(1) if any Securities are hereafter issued, none of such taxes may be levied after the expiration of the sixth calendar month next following the month during which the last of such securities are paid and retired; or

(2) if no Securities are hereafter issued and the governing body of the County instead elects to pay all the costs of the County Facilities by accumulating moneys therefor, none of such taxes may be levied after (i) the last day of the calendar month during which moneys sufficient therefor have been accumulated, or (ii) the last day of the calendar month during which the last of such costs are paid, whichever of the foregoing (i) or (ii) occurs first.

Any proceeds from the taxes herein authorized that are on hand at the time of termination of the levy (or that are thereafter received) and that are not needed for payment of debt service on any Securities shall be used to pay the costs of operating and maintaining the County Facilities.

Nothing herein contained shall prohibit the governing body of the County, subject to constitutional limitations on the impairment of contracts, from reducing at any time after the levy of any of the taxes herein authorized, the rate at which any of such taxes is levied or from ceasing to levy or impose any of such taxes.

**Section 10.** The provisions of this Act are severable. If any part of this Act is held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unen-

forceable the remaining parts hereof.

**Section 11.** This Act shall become effective upon its passage and approval by the Governor or upon its otherwise becoming a law except as otherwise herein provided.

Approved March 1, 1984

Time: 4:20 P.M.

Act No. 84-31

S.J.R. 16—Senator Mitchem

### SENATE JOINT RESOLUTION

**HONORING MR. JAMES W. (BILL) JOHNSON OF ALBERTVILLE, ALABAMA.**

WHEREAS, the recent retirement of Mr. James. W. (Bill) Johnson as general manager of the Albertville Municipal Utilities Board concluded a longtime career of 44 years in the utility business; and

WHEREAS, during the past 27 years in managerial capacity at MUB, Mr. Johnson has initiated and directed a number of aggressive and reorganizational programs, thereby establishing strong management controls and procedures which have resulted in significant national focus on the facilities as a model for excellence; and

WHEREAS, since 1957 when Mr. Johnson first joined MUB as manager, the Board has been the recipient of more than fifty awards, many of national scope, symbolizing success and achievement; and

WHEREAS, in addition to his career accomplishments, Mr. Johnson also is widely known and in great demand as a speaker throughout the Southeast; accorded the title, "Sand Mountain Philosopher," by the Chattanooga Times, his talks are a mixture of wit, motivation and inspiration and include homespun poetry and philosophy; and

WHEREAS, Mr. Johnson, who was named Albertville Man of the Year in 1965, currently is a director of Central Bank of the South of Albertville, North Alabama Industrial Development Association, a past director of Central Service Association, Tupelo, Mississippi, and is a member also of numerous utility associations; he is a graduate of Snead College, attended the University of Chattanooga and holds a management certificate awarded by the University of Tennessee; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA,**

**BOTH HOUSES THEREOF CONCURRING**, That we herein express highest commendation of Mr. James W. (Bill) Johnson of Albertville, Alabama, for extraordinary achievement in numerous areas of endeavors; we further express sincere praise of his outstanding career, wish him every happiness and future success in retirement, and direct that he receive a copy of this resolution evidencing our esteem.

Approved March 1, 1984

Time: 3:50 P.M.

Act No. 84-32

S.J.R. 17—Senator Mitchem

### SENATE JOINT RESOLUTION

**COMMENDING MR. VELPO MABREY OF GUNTERS-  
VILLE, MARSHALL COUNTY, ALABAMA.**

WHEREAS, the January 1, 1984, retirement of Mr. Velpo Mabrey brought to a close a prestigious tenure of some 14 years in managerial association with Alabama's multi-million dollar Lake Guntersville State Park; and

WHEREAS, in 1970 when Mr. Mabrey was appointed manager of the park, which was then under construction, he was to hold the unique position of becoming general manager of the first and only state-operated lodge and convention center; and

WHEREAS, Mr. Mabrey, who attended both Vanderbilt University and the University of Alabama where he majored in Business Administration, also completed the University of Georgia's continuing education course on Park Administration in 1973; his dedicated efforts course on behalf of the Guntersville Park are further evidenced through visits he made to Oklahoma and Kentucky, on his own time and at his own expense, to study the operation of their state parks; and

WHEREAS, Mr. Mabrey has also served as president of the Alabama Motel Association, the Alabama Mountain-Lakes Association, the Guntersville Chamber of Commerce and the Guntersville Civitan Club; he is a Sunday School teacher of the men's class of the first Methodist Church and serves as well as chairman of the church's pastoral relations committee; and

WHEREAS, prior to his position with the 5835-acre State Park, Mr. Mabrey was employed variously with a Florida paper mill, the Alabama State Health Department, with Commercial Carriers and the cotton mill in Guntersville, and with Val-Monte resort; now

therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we hereby highly commend Mr. Velpo Mabrey of Guntersville on his numerous outstanding accomplishments; we most particularly praise the achievements of Mr. Mabrey's tenure with Guntersville State Park and direct that he receive a copy of this resolution in token of our sincere regard.

Approved March 1, 1984

Time: 3:50 P.M.

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Act No. 84-33

S.J.R. 18—Senator Mitchem

### SENATE JOINT RESOLUTION

**DESIGNATING THE FOURTH WEEK IN APRIL, ANNUALLY, "PUBLIC SCHOOL WEEK" IN ALABAMA.**

**WHEREAS,** public schools are the keystone for the propagation and perpetuation of our democracy; and

**WHEREAS,** public schools determine the extent of enlightenment and knowledge of our citizens; and

**WHEREAS,** public schools provide equal opportunity for development of every citizen; and

**WHEREAS,** almost 800,000 children attend public schools in grades kindergarten through twelve in the State of Alabama; and

**WHEREAS,** the value of public schools has not been properly recognized by a complacent citizenry; and

**WHEREAS,** an expression of gratitude is overdue for our public school officials and the staff of well-trained, dedicated teachers and administrators throughout the Alabama public school system; and

**WHEREAS,** the Ancient and Accepted Scottish Rite of Freemasonry favors an enlightened citizenry through the American public schools; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That beginning in 1984 and annually thereafter, the fourth week of April is hereby designated "Public School Week" in Alabama.

**BE IT FURTHER RESOLVED,** That "Public School Week," sponsored by the Ancient and Accepted Scottish Rite of Freemasonry, shall be coordinated through the State Department of Educa-

tion and involve to the maximum extent every school and community in the State of Alabama, wherein proper recognition shall be given to the history, purpose, and accomplishments of Alabama Public Schools.

Approved March 1, 1984

Time: 3:50 P.M.

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Act. No. 84-34

S.J.R. 21—Senator Little

### SENATE JOINT RESOLUTION

DESIGNATING FEBRUARY 25, 1984, AS "MRS. ELLEN ADAMS APPRECIATION DAY" IN ALABAMA.

WHEREAS, Mrs. Ellen Adams of Alexander City, Alabama, has served for the past 17 years as administrator of Adams Nursing Home, a facility she founded in 1967; and

WHEREAS, Mrs. Adams, in unselfish dedication to the ill and elderly, worked diligently to expand her special refuge to those in need; her original 25-capacity nursing home was replaced in 1975 with a facility sufficient to accommodate 72 patients, and has since been expanded to a present total of 88 beds; and

WHEREAS, Mrs. Adams is indeed a model of devotion and love; she carries her responsibilities with a light heart, remaining true to her sincere belief that "her" patients come first; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in deep admiration and esteem, and in sincere gratitude for her contributions to the field of health care for the elderly, we hereby name and designate February 25, 1984, as "Mrs. Ellen Adams Appreciation Day in Alabama."

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Mrs. Adams that she may be aware of this special recognition of the Alabama Legislature.

Approved March 1, 1984

Time: 3:50 P.M.

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Act. No. 84-35

S.J.R. 22—Senators Little, Dial and Corbett

## SENATE JOINT RESOLUTION

**MOURNING THE DEATH OF JUDGE O. D. ALSOBROOK OF LAFAYETTE, CHAMBERS COUNTY, ALABAMA.**

**WHEREAS**, it is with deep sadness and regret that the Alabama Legislature records the death of Judge O. D. Alsobrook of Lafayette, Chambers County, Alabama, on August 2, 1983, at the age of 62 years; and

**WHEREAS**, Judge Alsobrook, a native of Cusseta, was serving at the time of his death in his 25th year as Chambers County Probate Judge, having begun his fifth six-year term in said elective office in January 1983; and

**WHEREAS**, Judge O. D. Alsobrook was, in consensus, one of our state's most prominent jurists and was an outstanding American patriot who served his country with courage and distinction during World War II and as a Captain with General George Patton's Third Army; he was a veteran of the Battle of the Bulge, among others, and his decorations included such distinguished citations as the Silver and Bronze Stars; and

**WHEREAS**, Judge Alsobrook further distinguished himself through involvement in numerous civic, charitable and community affairs, but most particularly in the areas of mental health and retardation; and

**WHEREAS**, though remembered for his accomplishments, both personal and professional, Judge Alsobrook is remembered most vividly for his love of people and his compassion for the less fortunate, and as a champion for the needs and rights of all mankind; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING**, That we grievously mourn the death of Judge O. D. Alsobrook of Lafayette, Alabama, and extend our deepest sympathy to those whose sorrow we share: his beloved wife and son, Mrs. Virginia Alsobrook and O. D. Alsobrook, III, his other family members and to the citizens of his beloved Chambers County.

Approved March 1, 1984

Time: 3:50 P.M.

Cabaniss, Cooley, Corbett,  
Covington, deGraffenried,  
Denton, Dial, Dixon, Drinkard,  
Ellis, Figures, Foshee, Goodwin,  
Hand, Hilliard, Holmes,  
Langford, Menton, Mitchem,  
Parsons, Pearson, Sanders,  
Smith (B), Smith (J), Strong  
and Teague

### SENATE JOINT RESOLUTION

DESIGNATING 1984 AS 4-H CLUB DIAMOND ANNIVERSARY YEAR IN ALABAMA.

WHEREAS, 4-H Club work began in Alabama with the organization of Boys' Corn Clubs in Walker, Calhoun and Tuscaloosa Counties in 1909; and

WHEREAS, the 4-H Club program, since its beginning in Alabama 75 years ago, has contributed greatly to the education and development of the youth of our state; and

WHEREAS, 4-H members acquire knowledge, develop life skills and form positive attributes that will enable them to become self-directing, productive and contributing members of society; and

WHEREAS, the 115,000 boys and girls now enrolled in 3,100 4-H clubs in Alabama, the 3,200 adult volunteer leaders who assist them and the 130 Extension youth professionals of the Alabama Co-operative Extension Service make an important contribution to the quality of family and community life in our state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That this body designates the year 1984 as 4-H Club Diamond Anniversary Year in Alabama in recognition of Alabama 4-H Clubs for 75 years of service to the youth of Alabama.

Approved March 1, 1984

Time: 3:50 P.M.

Act No. 84-37

S.J.R. 30—Senators Amari, Hilliard,  
Bennett, Parsons and  
Cabaniss.

### SENATE JOINT RESOLUTION

COMMENDING RADIO STATION WZZK.

WHEREAS, Birmingham radio station WZZK has supported the interest of Birmingham and the surrounding area through music, laughter, news, weather and good conversation; and

WHEREAS, station WZZK has, since coming on the air, been supportive of charitable and worthwhile community projects; and

WHEREAS, on February 15, 1984, station WZZK, at their own expense, brought circus performers of the Barnum and Bailey Circus to The Children's Hospital, thereby allowing these children who otherwise would not have been able to experience the pleasure of the wonderful world of a circus; and

WHEREAS, the legislature feels this action by station WZZK on February 15, 1984, reflects outstanding community support and compassion for the children of Alabama and constitutes conduct that should be noted; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with The Children's Hospital and the Alabama Hospital Association in commending Radio Station WZZK for their support of The Children's Hospital and the youth of our State.

Approved March 1, 1984

Time: 3:50 P.M.

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Act No. 84-38

S.J.R. 32—Senator Little

### SENATE JOINT RESOLUTION

COMMENDING DR. WILFRED BAILEY AS INTERIM PRESIDENT OF AUBURN UNIVERSITY.

WHEREAS, the Alabama Legislature joins Auburn University alumni and supporters, both statewide and nationally, in commendation of and in deep gratitude to Dr. Wilfred Bailey; and

WHEREAS, during the past year as Auburn's interim president, Dr. Bailey's achievements have been notable as well as numerous, enabling the University to move forward and even to continue in progress and in growth; and

WHEREAS, among many other accomplishments, Dr. Bailey made significant advancement in Auburn's building programs and renovations, completed the self-study requirements of the Southern Association of Colleges and Schools for accreditation, continued the in-progress Auburn Generations Fund and its goal of \$61.7 million, and formally launched the School of Education's Truman Pierce In-



stitute for Advanced Education; and

WHEREAS, other major developments in a number of areas may also be attributed to Dr. Bailey's leadership and administrative guidance; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein express Alabama's gratitude to Dr. Wilfred Bailey of Auburn University; we are further grateful that Dr. Bailey continues in service to Auburn through his professorship in the School of Veterinary Medicine and as chairman of the Faculty Athletic Committee.

BE IT FURTHER RESOLVED, That in token of our deepest admiration and esteem, a copy of this resolution shall be forwarded to Dr. Bailey.

Approved March 1, 1984

Time: 3:50 P.M.

Act. No. 84-39

S.J.R. 33—Senator Little

### SENATE JOINT RESOLUTION

DESIGNATING THE WEEK OF FEBRUARY 26, 1984, AS "ALABAMA ARTS REFUND WEEK".

WHEREAS, the Alabama Legislature created the Alabama Arts Development Fund allowing Alabama taxpayers to donate portions of their tax refund to the arts through the Alabama Arts Refund Program; and

WHEREAS, the Alabama State Council on the Arts has initiated a corporate development program to encourage a partnership between businesses and the arts; and

WHEREAS, Aetna Life and Casualty Foundation is matching individual contributions made to the Alabama Arts Refund Program to fund the Alabama Arts Alliance, statewide community arts development and the artist residency program; and

WHEREAS, the Alabama Arts Alliance Program will commence on February 28, 1984, with participating arts organizations from Opelika, Guntersville, Florence, Sylacauga, Huntsville, Birmingham, Montgomery, and Mobile; and

WHEREAS, the Alabama Legislature commends the Alabama State Council on the Arts and Aetna Life and Casualty Foundation for their promotion of the arts in Alabama and the development of the Alabama Arts Alliance program; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby designate the week of February 26, 1984, as Alabama Arts Refund Week in recognition of these achievements.

Approved March 1, 1984

Time: 3:50 P.M.

Act No. 84-40

H.J.R. 60—Buskey (James), Kennedy,  
Cosby

### HOUSE JOINT RESOLUTION

HONORING THE LATE FRANK P. THOMAS, JR., PROMINENT ALABAMA NEWSPAPER EDITOR AND PUBLISHER.

WHEREAS, on October 22, 1983, the late Frank P. Thomas, Jr., was inducted into the Alabama Newspaper Hall of Honor in posthumous recognition of his prominence in the newspaper field; and

WHEREAS, Mr. Thomas, founder and editor of the *Tuscaloosa Alabama Citizen*, *Selma Citizen* and *Mobile Beacon*, entered the newspaper field as a young newsboy in 1921 for the *Birmingham Truth* and the *Birmingham Age Herald*; and

WHEREAS, in the 1930's, as a student, Mr. Thomas was editor of the Stillman College paper, while working also for the *Atlanta Daily World*, *Tuscaloosa World* and the *Tuscaloosa News*; he founded his first paper in 1943 upon his return as a disabled veteran of World War II; and

WHEREAS, his first success with the *Alabama Citizen* prompted his establishment of the *Selma Citizen* and later the *Mobile Beacon* in 1954; and

WHEREAS, Editor-Publisher Thomas was professionally associated with Sigma Delta Chi and the Mobile Press Club; the *Beacon* was a member of the Alabama Press Association, and of the National Newspaper Publishers Association which honored Mr. Thomas in 1972 as Publisher of the Year; and

WHEREAS, Mr. Thomas' activities and involvement extended further to include numerous civic, charitable and religious endeavors, in leadership association and capacity, and he was prominent both locally and statewide in the National Association for the Advancement of Colored People; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA,

BOTH HOUSES THEREOF CONCURRING, That we hereby pay tribute to the accomplishments of the late Frank P. Thomas, Jr., of Mobile, Alabama; we further note with utmost commendation his induction into the Alabama Newspaper Hall of Honor and direct that his family receive a copy of this resolution in expression of our sincerest regard of his extraordinary achievement.

Approved March 1, 1984

Time: 3:50 P.M.

Act No. 84-41

H.J.R. 33—Reps. Hall, Hettinger, Brooks,  
Butler, Grayson

### HOUSE JOINT RESOLUTION

#### CREATING THE MADISON COUNTY TAX DISTRIBUTION STUDY COMMITTEE.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there be and hereby is established in Madison County, a Commission to be known as the Madison County Tax Distribution Study Commission, hereinafter called "the Commission." The Commission shall be composed of a total of ten (10) members, with each member of the Madison County Legislative Delegation making one appointment. The Chairman shall be elected from among its members and shall preside over all meetings. The Commission shall make its own rules for the conduct of business. The initial meeting shall be held at the call of the Chairman. Members of the Commission shall serve without compensation. Administrative and clerical assistance shall be provided by the Madison County Legislative Delegation Office.

The purpose of the Commission shall be to conduct studies and provide information and recommendations, regarding local sales tax, local beer and alcoholic taxes, money paid by the City of Huntsville utilities in lieu of taxes and other areas as directed by the Madison County Delegation, to the said delegation.

The Commission shall make its recommendations to the Madison County Legislative Delegation by December 1, 1984, at which time it shall be discharged of any further responsibilities or duties.

Approved March 1, 1984

Time: 4:35 P.M.

Act No. 84-42

H.J.R. 43—Reps. Gaston, Kvalheim

## HOUSE JOINT RESOLUTION

COMMENDING MR. THOMAS CLARKE HUCKABEE OF MOBILE, ALABAMA, FOR OUTSTANDING SERVICE IN EDUCATION.

WHEREAS, Mr. Thomas Clarke Huckabee of Mobile, Alabama, is a graduate of Southwestern at Memphis and holds the M.A. degree from George Peabody College; and

WHEREAS, from 1946 until 1975, Mr. Huckabee was associated with University Military School, first as assistant principal, head football coach and chemistry teacher until 1950 and, from 1950 until 1959, as principal, athletic consultant and chemistry teacher, and as superintendent from 1959 to 1975; and

WHEREAS, during Mr. Huckabee's tenure, University Military School enjoyed numerous major improvements to its physical plant including the D.R. Dunlap Memorial Auditorium, Corinne Aubert Roberts Memorial Library and the E. A. Roberts Memorial Dormitory; and

WHEREAS, in the area of academics, UMS was the first elementary school in Alabama to receive accreditation from the Southern Association of Colleges and Schools; it was listed in the 1967-68 edition of Who's Who Among American High Schools, and the school's percentage of graduates enrolled in major colleges and universities is an extraordinary 97 percent; and

WHEREAS, Mr. Huckabee has achieved personally through listings in Who's Who in South and Southwest, International Dictionary, Outstanding Personalities of the South and Who's Who in American Education; he has received the International Personnel Research Creativity Award and the Community Leader of America Award as well; and

WHEREAS, he is a member of the Mobile Rotary Club, Phi Delta Kappa, and Springhill Presbyterian Church where he serves on the Board of Deacons; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Mr. Thomas Clarke Huckabee of Mobile, Alabama, for outstanding service in the field of education; we most particularly praise the accomplishments of Mr. Huckabee's tenure at University Military School and direct that he receive a copy of this resolution in token of our regard.

Approved March 1, 1984

Time: 4:35 P.M.

Act No. 84-43

H.J.R. 44—Reps. Gaston, Kvalheim

# HOUSE JOINT RESOLUTION

COMMENDING COACH LeVAUGHN HANKS FOR LONG AND DISTINGUISHED SERVICE TO THE YOUTH OF MOBILE COUNTY.

WHEREAS Coach LeVaughn Hanks of Mobile has been a dedicated coach of high school team sports in this state for over 38 years; and

WHEREAS Coach Hanks began his coaching career at Monroeville High School in 1945 where he carried three basketball teams to the state tournament during a ten-year tenure there before moving to Mobile; and

WHEREAS he coached team sports at Murphy High School, UMS, Baker High School and St. Paul's from 1956-1977 and had no losing basketball seasons at Murphy between 1958-1971 while taking them to the state tournament seven times; and

WHEREAS Coach Hanks blended the desirable qualities of outstanding coaching ability with good sportsmanship having compiled an overall basketball record of 488 wins against only 220 losses while having only two technical fouls called on him during his career; and

WHEREAS Coach Hanks has twice received the M. O. Beale Schroll of Merit Award from the Mobile Press Register; and

WHEREAS Coach Hanks serves as an active deacon in the Springhill Baptist Church and has always assumed a leadership role in civic affairs in his community; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby heartily commend Coach LeVaughn Hanks for his long and distinguished service to the youth of Mobile County.

RESOLVED FURTHER, That a copy of this resolution be sent to Coach Hanks.

Approved March 1, 1984

Time: 4:35 P.M.

Act No. 84-44

H.J.R. 46—Rep. Cosby

## HOUSE JOINT RESOLUTION

## COMMENDING MISS SHERER HUCKABEE FOR OUTSTANDING ACCOMPLISHMENT.

WHEREAS, the Alabama Legislature notes with highest commendation the selection of Miss Sherer Huckabee as 1983 United States National Award Winner in Art; she also will appear in the official Who's Who Yearbook, published nationally by the United States Achievement Academy; and

WHEREAS, Miss Huckabee, an honor student at North Fulton High School in Atlanta and a participant in the Georgia Governor's Honors Program, is the daughter of former Alabamians, Mrs. Pattie Huckabee and Mr. Grover C. Huckabee, III; she is the granddaughter of Mr. and Mrs. Jack Sherer of Selma and Mr. and Mrs. G.C. Huckabee, Jr., of Demopolis; and

WHEREAS, it is to be noted that winners of the prestigious Achievement Academy Awards are selected solely upon recommendation of school faculties and staffs, and according to Standards of Selection set forth by the Academy; Miss Huckabee's achievements in art include First Place in the Georgia State Symposium for three years, First Place in the National Art Competition for high school students and First Place in Kaleidoscope, a showing of selected high school student artists; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly praise and commend Miss Sherer Huckabee for outstanding achievement; we further congratulate Miss Huckabee on her numerous awards and honors and direct that she receive a copy of this resolution in small token of our regard, and in expression of our sincere best wishes for her every future success.

Approved March 1, 1984

Time: 4:35 P.M.

Act No. 84-45

H.J.R. 49—Reps. Turnham, Smith, Adams,  
Albright, Bachus, Beers,  
Biddle, Black, Blake, Blakeney,  
Boles, Bowling, Box,  
Brakefield, Britnell, Brooks,  
Browder, Bryant, Bugg, Burke,

Buskey (James), Buskey  
 (John), Butler, Campbell,  
 Carothers, Carter, Clark (D),  
 Clark (J), Clark (W), Coburn,  
 Coleman, Cosby, Crow, Davis,  
 Drake, Dutton, Escott, Faulk,  
 Flowers, Ford, Fuller, Gaston,  
 Goodwin, Gray, Grayson,  
 Grimsley, Grouby, Hall,  
 Hammett, Harper, Harvey,  
 Hettinger, Holley, Holmes,  
 Hooper, Horn, Johnson (R.G.),  
 Johnson (Roy), Junkins,  
 Kennedy, Kvalheim, Laird,  
 Lauderdale, Lindsey,  
 McDowell, McKee, McMillan,  
 McNair, Marietta, Martin,  
 Mathis, Melton, Mikell,  
 Mitchell, Moore, Newman,  
 Nicholson, Onderdonk, Parker,  
 Payne, Penry, Perdue, Poole,  
 Pratt, Preuitt, Rains, Reed,  
 Rice, Richardson, Rogers,  
 Sasser, Seibels, Spratt,  
 Starkey, Starr, Tanner,  
 Thomas, Trammell, Turner,  
 Venable, Warren, White (F),  
 White (G), White (L), Zoghby

## HOUSE JOINT RESOLUTION

### COMMEMORATING THE 75th ANNIVERSARY OF 4-H.

WHEREAS, 4-H Club work began in Alabama with the organization of Boys' Corn Clubs in Walker, Calhoun and Tuscaloosa Counties in 1909; and

WHEREAS, the 4-H Club program since its beginning in Alabama 75 years ago has contributed greatly to the education and development of the youth of our state; and

WHEREAS, 4-H members acquire knowledge, develop life skills and form positive attributes that will enable them to become self-directing, productive and contributing members of society; and

WHEREAS, the 115,000 boys and girls now enrolled in 3,100 4-H clubs in Alabama, the 3,200 adult volunteer leaders who assist them and the 130 Extension youth professionals of the Alabama Co-operative Extension Service make an important contribution to the

quality of family and community life in our State; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That this body designates the year 1984 as 4-H Club Diamond Anniversary Year in Alabama in recognition of Alabama 4-H Clubs for 75 years of service to the youth of Alabama.

Approved March 1, 1984

Time: 4:35 P.M.

Act No. 84-46

H.J.R. 50—Reps. Richardson, Hall,  
Hettinger, Coburn,  
Starkey, Goodwin,  
Clark (D), Lauderdale

### HOUSE JOINT RESOLUTION

**COMMENDING FORMER ALABAMA CONGRESSMAN ROBERT E. JONES AND INVITING HIM TO ADDRESS A JOINT SESSION OF THE LEGISLATURE.**

**WHEREAS,** former Congressman Robert E. Jones served in the United States Congress for 30 years, representing the people of Alabama's Fifth Congressional District; and

**WHEREAS,** during his prestigious tenure, Congressman Jones served as chairman of the Public Works and Transportation Committees, co-authored both the Interstate Highway Act of 1956 and the Accelerated Public Works Act of 1959, and authored the first Rural Housing Act in 1949 under which the first house built was in Jackson County; and

**WHEREAS,** he further was instrumental in the movement of the Department of the Army from Fort Bliss, Texas, to Redstone which later, of course, become associated with NASA; he authored the TVA Bonding Authority in 1959 and co-authored, as well, the National Water District Systems Act; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That on behalf of the entire State of Alabama, we express deep gratitude to Congressman Robert E. Jones for outstanding service both to the Fifth Congressional District and to all of Alabama.

**BE IT FURTHER RESOLVED,** That Congressman Jones be invited to address a joint session of the Legislature, at a date and time to be later set, and that a copy of this resolution be presented



to Congressman Jones at such time as it is convenient for him to appear before the Legislature.

Approved March 1, 1984

Time: 4:35 P.M.

Act No. 84-47

H.J.R. 51—Rep. Rains

### HOUSE JOINT RESOLUTION

COMMENDING MR. AND MRS. JAMES ALLEN JOHNSON ON THEIR 50TH WEDDING ANNIVERSARY.

WHEREAS, the Alabama Legislature notes with pleasure the Golden Wedding Anniversary, October 26, 1983, of Mr. and Mrs. J.E. (Jim) Johnson of Jacksonville, Alabama; and

WHEREAS, in the sight of God, James Allen Johnson and Ola Shirey were joined in wedlock on October 26, 1933, near Fyffe in DeKalb County and these two fine people, forsaking all others, have remained in said Holy state for 50 years; and

WHEREAS, adhering to Biblical admonition, they have lived their lives as one, devoted each to the other, and have been steadfastly faithful to their marriage vows, setting an example to be emulated by young couples who also pledge themselves to one another until parted by death; and

WHEREAS, Mr. and Mrs. Johnson are the parents of three children and the loving grandparents of seven wonderful grandchildren and two fine great-grandchildren; and

WHEREAS, Mr. Johnson, a former merchant, farmer and school teacher, also served for six years as chief clerk in the DeKalb County Probate Judge's office, and served one six-year term as Probate Judge; he and his wife Ola, a homemaker, have been members of the Baptist Church for more than 50 years and currently are members of the First Baptist Church of Jacksonville; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with family and friends in congratulating this exemplary couple of Jacksonville, Alabama, and wish them many more happy years together in their union blessed by God, and a marriage of Christian dedication and morality.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Mr. and Mrs. Johnson that they may know of our congratulations and warm best wishes.

Approved March 1, 1984

Time: 4:35 P.M.

Act No. 84-48

H.J.R. 16—Rep. Holley

# HOUSE JOINT RESOLUTION

STATING LEGISLATIVE AUTHORITY RELATIVE TO  
ACT NO. 81-889, S. 32 FIRST SPECIAL SESSION, 1981.

WHEREAS, it is the law as prescribed by the Constitution of the State of Alabama that within their respective spheres each branch of government is supreme and only the legislature, under the Constitution of Alabama of 1901, has the power to propose amendments to the Constitution and only the electorate may give viability to such amendments, and the power of the legislature is plenary in the enactment of laws; and

WHEREAS, the legislature hereby finds and declares as follows: that S. 32 of the First Special Session of the 1981 Legislature which was designated Act 81-889, was such a proposed amendment that never received final action and was pending at the close of the business of the 1982 Regular Session of the Alabama Legislature, and the constitution does not provide for carrying over pending legislative business to the next session; now therefore,

BE IT RESOLVED BY THE ALABAMA LEGISLATURE, BOTH HOUSES THEREOF CONCURRING, That we do direct that this public document, along with other papers and documents of the House and Senate shall be kept in accordance with Sections 29-1-16(a)(2), 29-1-16(b) and 29-1-17, Code of Alabama 1975, with the records, papers and documents belonging to the legislature, and shall remain there until the legislature dictates otherwise.

RESOLVED FURTHER, That further action on this proposed amendment is improper, unconstitutional, and should be moot.

Approved March 1, 1984

Time: 4:35 P.M.

Act No. 84-49

H.J.R. 56—Rep. Coburn

# HOUSE JOINT RESOLUTION

DESIGNATING THE PLACE OF MEETING OF THE ALABAMA LEGISLATURE AND AMENDING SJR 2, ACT NO. 83-

## 850, FOURTH SPECIAL SESSION 1983.

WHEREAS, The Alabama State Capitol is to be repaired, renovated and restored beginning January 1, 1984, and

WHEREAS, Act No. 82-331 authorizes the Legislature to provide a suitable meeting place for the transaction of business while the Capitol is being repaired, renovated and restored; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, that the seventh floor of the Alabama Highway Department Building is hereby designated as the place of meeting for the Senate of the State of Alabama and the fifth floor of the Alabama Highway Department Building is hereby designated as the place of meeting of the Alabama House of Representatives beginning with any Session after the 1984 Regular Session. The Senate and House of Representatives will occupy the fifth, sixth and seventh floors of the Alabama Highway Department Building and any portion of the fourth floor of said building as may be needed for the transaction of any official legislative business and duties beginning January 1, 1984.

BE IT FURTHER RESOLVED, that the fifth, sixth and seventh floors and any portion of the fourth floor as may be necessary of the Alabama Highway Department Building shall be designated and known as the Alabama State House pursuant to Act No. 82-331.

Approved March 1, 1984

Time: 4:35 P.M.

Act No. 84-50

S. 22—Senator Bennett

# AN ACT

To amend the "Hazardous Waste Management Act of 1978," as amended, specifically amending Sections 22-30-3, 22-30-12, 22-30-13, 22-30-15, 22-30-16, 22-30-17, 22-30-18, 22-30-19 and 22-30-21, Code of Alabama 1975, so as to clarify the definition of disposal and add a definition of transporter; ensure that the Alabama Department of Environmental Management (ADEM) has sufficient time to review permit applications prior to approval or disapproval; more fully define the responsible party for permit issuance; require that out-of-state shipments of hazardous waste be transported to and disposed of at only those facilities which have been approved by the United States Environmental Protection Agency (EPA) or a state pursuant to a hazardous waste management program approved by EPA; clarify the Alabama program's authority to promulgate transporter regulations to protect human health and the environment; clarify the application of trade secret protection; clarify and enlarge the penalties section by amending the civil monetary penalties section, eliminating duplicate criminal liability provisions and clarifying the state's authority to require correction of violations; provide that the 90-day exemption relating to the storage of haz-

ardous waste applies only to on-site storage by the generators of such waste; provides for further regulation of certain transporters; and allow the substitution of proper shipping papers for the manifest for certain transporters.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 22-30-3, 22-30-12, 22-30-13, 22-30-15, 22-30-16, 22-30-17, 22-30-18 and 22-30-19, Code of Alabama 1975, are hereby amended to read as follows:

“§ 22-30-3

“When used in this chapter and except where the context prohibits, the following words and terms shall have the following meanings:

“(1) **BOARD.** The Alabama department of environmental management.

“(2) **DISPOSAL.** The discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

“(3) **DISPOSAL SITE.** The location where any ultimate disposal of hazardous waste occurs.

“(4) **GENERATOR.** Any person who utilizes any process which results in the production of hazardous waste.

“(5) **HAZARDOUS WASTE.** A waste, or combination of wastes, which, because of its quantity, concentration or physical, chemical or infectious characteristics may;

“a. Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illnesses; or

“b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.

Radioactive waste and by-products as defined by chapter 14 of this title, are expressly excluded from this definition.

“(6) **HAZARDOUS WASTE MANAGEMENT.** The systematic and comprehensive management of the generation, storage, transportation, treatment, recycling, recovery or disposal of hazardous waste materials.

“(7) **HAZARDOUS WASTE TECHNICAL ADVISORY COMMITTEE.** The committee as provided in section 22-30-8.

“(8) **MANIFEST.** The form adopted by the board used for

identifying the quantity, composition, origin, routing and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment or storage.

“(9) **PERPETUITY.** For the purposes of this chapter, such term shall mean a period of 200 years following closure of the facility.

“(10) **PERSON.** Any and all persons, natural or artificial, including, but not limited to any individual, partnership, association, society, joint stock company, firm, company, corporation, institution, trust, estate, or other legal entity or other business organization or any governmental entity, and any successor, representative, agent or agency of the foregoing.

“(11) **WASTE.** Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations and from community activities, including any material to be discarded by a generator, but such term does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the federal Water Pollution Act, as amended (86 Stat. 880), or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

“(12) **TRADE SECRET.** Such term includes, but is not limited to, any formula, plan, pattern, process, tool, mechanism, compound or procedure, as well as production data or compilation of information, financial and marketing data, which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce or compound an article of trade or a service having commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know of it.

“(13) **TRANSPORTATION.** The movement of wastes from the point of generation to any intermediate transfer points, and finally to disposal site.

“(14) **TRANSPORTER.** A person engaged in the off-site transportation of hazardous waste by air, rail, highway or water.

“(15) **TREATMENT.** The physical or chemical treatment, recovery, detoxification, neutralization, incineration, biodegradation, separation, fixation or otherwise modification of a potentially hazardous waste to remove or reduce its harmful properties or

characteristics.

“(16) **TREATMENT FACILITY.** A location at which wastes are subjected to treatment, and may include a facility where waste has been generated.

“(17) **STORAGE.** The actual or intended containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes.

“(18) **STATE BOARD OF HEALTH.** The Alabama department of environmental management.

“(19) **STATE HEALTH OFFICER.** The director of the Alabama department of environmental management.”

“§ 22-30-12

“(a) Not later than February 8, 1979, the board shall promulgate a permit program for hazardous waste management practices and promulgate criteria for issuing permits and regulations identifying procedures for obtaining permits or approval.

“(b) The board shall encourage and utilize, to the maximum extent, private enterprise and investment capital in the planning, design, construction and operation of hazardous waste processing facilities and disposal sites.

“(c) General requirements.

“(1) The board shall issue permits for all hazardous waste transportation, storage or treatment facilities and disposal sites constructed and operated in compliance with the regulations, guidelines and standards promulgated by the board. Before any disposal site permit is issued, the board shall give proper notice of the application therefor to the appropriate local governing bodies having jurisdiction over the proposed site and shall hold a public hearing on the matter. The board shall act with all reasonable speed in reviewing the application consistent with protecting the public health and the environment.

“(2) Upon filing of an application by any person proposing to transport, store, treat or dispose of hazardous wastes, the board is authorized to investigate the equipment, facilities and proposed practices of the applicant and all other circumstances and conditions deemed material by the board. The board is authorized to collect from the applicant an amount equal to its expenses in making the investigation.

“(3) No person shall engage in transporting, storage, treatment or disposal of hazardous wastes without a permit or prior approval from the board. Generators of hazardous waste who merely

concentrate and/or prepare such waste for shipment and do not engage in the transportation, storage, treatment or disposal of hazardous waste are exempt from the permit requirement.

“(4) Any person proposing to transport hazardous waste or to construct and operate hazardous waste storage, or treatment facility and/or disposal site shall submit, prior to the granting of any permit, a surety bond in which the applicant is the principal obligor and the board is the obligee, or evidence satisfactory to the board of a net worth of an amount equal to 10 times the value of the proposed surety bond. The amount of the bond shall be determined by the board in each individual case, based upon the scope and size of the operation proposed.

“(5) No owner or operator shall commence construction of any proposed hazardous waste transportation, storage or treatment facility or disposal site without having first filed an application for and received a construction permit from the board.

“(6) No owner or operator shall commence operation of any hazardous waste transportation, storage or treatment facility or disposal site without having first obtained a permit from the board.

“(7) No person shall deliver any hazardous wastes to a hazardous waste transportation, storage or treatment facility or hazardous wastes disposal site which has not received a permit from the board.

“(8) Existing facilities and sites may be granted a permit variance subsequent to sufficient evidence being presented at a hearing to assure that the facility or site is, or will be within a reasonable period of time, in compliance with the rules and regulations, guidelines, criteria and standards promulgated by the board.

“(9) Permits or licenses for all hazardous waste transportation, storage or treatment facilities and disposal sites previously issued by the board or by any other agency of the state under any statute shall continue in effect for a minimum period of 60 days following the effective date of the rules and regulations promulgated under this chapter and for such additional period as the board may by rule establish.

“(10) No provisions of this chapter shall be construed to prohibit disposal of hazardous waste at the site of production or generation if the disposal site is in compliance with this chapter or rules and regulations promulgated hereunder and such disposal does not present an imminent and substantial endangerment to health or the environment.

“(d) Upon a determination by the board of noncompliance by a facility or site having a permit under this section with the require-

ments of this section or of noncompliance with the responsibilities set forth in sections 22-30-14, 22-30-15 and 22-30-16, the board may revoke such permit."

"§ 22-30-13

"All persons generating hazardous wastes shall dispose of such wastes in accordance with one of the following methods which shall be detailed by regulations:

"(1) A generator may dispose of such wastes at its own private site, provided such site is operated under a valid permit from the board.

"(2) A generator may dispose of such wastes at a privately or publicly owned or operated disposal site, provided such site is owned and operated under a valid permit from the board or, if it is out of state, approved by either the United States Environmental Protection Agency or a state pursuant to a hazardous waste management program approved by the United States Environmental Protection Agency.

"(3) A generator may dispose of such wastes by contracting with a private transporter to transport such wastes to a disposal site, provided the transporter is operating under a valid permit from the board and transports the waste to a disposal site which is operated under a valid permit by the board or, if out of state, approved by either the United States Environmental Protection Agency or a state pursuant to a hazardous waste management program approved by the United States Environmental Protection Agency.

"(4) A generator may dispose of such wastes at a public site operated under a valid permit from the board or, if out of state, approved by either the United States Environmental Protection Agency or a state pursuant to a hazardous waste management program approved by the United States Environmental Protection Agency."

"§ 22-30-15

"Subject to section 22-30-21, the board shall promulgate regulations establishing such standards, applicable to transporters of hazardous waste identified or listed under this chapter, as may be necessary to protect human health and the environment. Such standards shall include but not be limited to the following:

"(1) Obtaining a permit from the board;

"(2) Complete the manifest form in conjunction with the generator;

"(3) Assure that all hazardous wastes are brought to a permit-



ted hazardous waste treatment or storage facility or disposal site;

“(4) Maintain records of hazardous waste transported; and

“(5) Transporting such waste only if properly labeled.”

“§ 22-30-16

“The owner or operator of a hazardous waste storage or treatment facility and/or hazardous waste disposal site shall be responsible for:

“(1) Obtaining a permit from the board for each treatment or storage facility or disposal site;

“(2) Acknowledging receipt of the hazardous waste accompanied by the manifest;

“(3) Assuring that all hazardous wastes are stored, treated and/or disposed of in accordance with the applicable rules and regulations, standards, criteria and guidelines promulgated by the board;

“(4) Maintaining records of all hazardous wastes stored, treated and/or disposed of and report any new processing or disposal monthly;

“(5) Developing contingency plans for effective action to minimize unanticipated damage from treatment, storage or disposal of hazardous waste;

“(6) Satisfactory reporting, monitoring and inspection for compliance with the manifest system;

“(7) Compliance with rules and regulations of the board concerning the location, design and construction of such hazardous waste treatment, disposal or storage facilities;

“(8) Posting a bond, or other surety or form of financial assurance acceptable to the board payable to the state of Alabama in the amount of \$1,000,000.00, or such other amount as may be required by the board, but in no event shall said bond or such other financial assurance be in an amount less than that required by the United States Environmental Protection Agency. Said bond or other financial assurance shall be conditioned upon compliance with this section, and the rules, regulations, orders or other requirements as may be promulgated by the board; and

“(9) The maintenance and operation of such facilities and observance of such additional qualifications as to ownership, methods and operation, training of personnel and financial responsibility as may be deemed necessary or desirable by the board.

“§ 22-30-176 Manifest

“(a) The board shall develop and promulgate a manifest. The hazardous waste technical advisory committee shall review the manifest and submit recommendations to the board.

“(b) The board shall, after publication of notice and conduct of a public hearing, promulgate a manifest to be originated by the hazardous waste generators in accordance with the regulations promulgated by the board.

“(c) After six months following the effective date of the regulations promulgated under this chapter, a manifest shall be required to accompany transportation, storage, treatment and/or disposal of hazardous waste, provided, however, that regarding bulk shipments by rail or water, a shipping paper may be substituted for the manifest if the shipping paper meets the requirements set out in the regulations promulgated under this chapter. The manifest shall be originated by the hazardous waste generator identifying the hazardous waste transported, the quantity of such waste, the general chemical, physical and mineral composition of such waste identified by probable maximum and minimum percentages and such other information as the board may require.

“(d) A copy of the complete manifest shall be forwarded monthly to the board by those processing hazardous waste.”

“§ 22-30-18

“Every generator, transporter and owner or operator of a treatment or storage facility or disposal site of hazardous wastes shall establish and maintain such records for a three-year period, make such reports and furnish such information pertaining to the generation, transportation and treatment, storage or disposal of said hazardous wastes as the board shall require. Any records, reports or information obtained from the generator under this section shall be available to the public; except, that upon a showing satisfactory to the board by the person submitting the records, reports or information that the records, reports or information, or a particular part thereof, to which the board has access, if made public, would divulge production costs, sales figures or methods, processes or production unique to such persons or would otherwise tend to affect adversely the competitive nature of such person's business by revealing trade secrets, the board shall consider such records, reports or information, or particular portion thereof, trade secrets in the administration of this chapter. Nothing herein shall be construed to prevent disclosures of any such report, records or information to federal, state or local representatives as necessary for the purposes of the administration of any federal, state or local hazardous waste control laws or when relevant in any proceeding under such laws; however, before such disclosure, said federal, state or local representatives

shall be subject to provisions of this section."

"§ 22-30-19

"(a) Whenever, on the basis of any information, the board determines that any person is in violation of or threatens to violate any requirement of this chapter, any regulation adopted by the board or any permit issued under authority granted by this chapter, the board may issue an order requiring compliance immediately or within a specified time period, or, in cases where imminent danger to public health or safety or the environment is demonstrated, suspend operations causing such danger until the board determines that adequate steps are being taken to correct such violations; or the board may commence a civil action in the circuit court in the country in which such alleged violation occurred, for appropriate relief, including temporary or permanent mandatory or prohibitive injunctive relief.

"(b) Any order issued under this section shall state the nature of the violation and the time period within which compliance is required and the amount of any civil monetary penalty sought by the board for any violation of any provision of this chapter, any rule or regulation adopted by the board or any permit issued under authority of this chapter. The amount of any civil monetary penalty sought shall be determined by the board on the basis of the seriousness of the violation, and whether any good faith efforts were or are being made to comply with this chapter, the applicable rules or regulations, or the permit. The amount of any civil monetary penalty shall not be more than \$25,000.00 for each violation. Each day such violation continues shall constitute a separate violation for purposes of this section. If a person fails to take the corrective action required within the time specified in an order issued pursuant to subsection (a) of this section, he shall be liable for such civil monetary penalty. The board may adopt such penalty assessment procedures as may be promulgated or approved by the United States Environmental Protection Agency or other such federal agencies; and the board may suspend or revoke any permit issued to the violator.

"(c) If a person fails to pay any civil monetary penalty assessed under this section, the board may institute a civil action against such person in the circuit court of any county in which such a person is found, resides or transacts business to collect such penalty or cost. Such court shall have exclusive jurisdiction to hear and decide any such action. The court shall sustain the board's finding of violation and assessment of civil penalty if such action is supported by fair preponderance of the evidence.

"(d) The board is hereby authorized and empowered to compromise and settle any civil monetary penalty under this section in

such amount, which in the discretion of the board may appear appropriate and equitable, to a maximum of 90 percent of the penalty when within one year or such other period as the board may deem reasonable the person takes action to eliminate or correct such violation to the satisfaction of the board.

“(e) For the purposes of developing or assisting in the development of any regulation or enforcing the provisions of this chapter, duly designated officers or employees of the board are authorized to enter, at reasonable times, any establishment or other place maintained by any person where hazardous wastes are generated, stored, treated or disposed of. Each such inspection shall be commenced and completed with reasonable promptness. If the officer or employee obtains any samples prior to leaving the premises, such officer or employee shall give the owner, operator or agent in charge a receipt describing the sample obtained and, if requested, a portion of each such sample equal in volume or weight to the portion obtained. If any analysis is made of such sample, a copy of the results of such analysis shall be furnished promptly to the owner, operator or agent in charge. Any records, reports or information obtained from any person under this section shall be subject to the provisions of sections 22-30-9 and 22-30-18 concerning trade secrets.

“(f) Any person who intentionally, knowingly, recklessly or with criminal negligence:

“(1) Transports any hazardous waste listed under this chapter to a facility or site which does not have a permit under section 22-30-12;

“(2) Treats, stores, or disposes of any hazardous waste listed under this chapter without having obtained a permit therefor under this chapter; provided, however, that any generator of a hazardous waste listed under this chapter who stores such waste on-site for 90 days or less shall not be in violation of this subsection;

“(3) Through his handling of any hazardous waste allows such waste to contaminate groundwater without having obtained a permit therefor under this chapter; or, if permitted, violates the conditions of such permit;

“(4) Makes any false statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained or used for purposes of compliance with this chapter; or

“(5) Violates any provisions of this chapter, any rule or regulation adopted by the board, any provision of any permit issued by the board or any provision of any order issued under this chapter shall, upon conviction be subject to a fine of not more than

\$25,000.00 for each violation of paragraphs (3), (4) or (5) and \$50,000.00 for each violation of paragraphs (1) and (2), or to imprisonment not to exceed 10 years, or both. If the conviction is for a violation committed after a first conviction of such person, under this chapter, punishment shall be a fine of not more than \$50,000.00 for each violation, or by imprisonment of not more than 20 years, or by both. Each day such violation continues shall constitute a separate violation for purposes of this subsection.

**Section 2.** Section 22-30-21, Code of Alabama 1975, is hereby amended to read as follows:

“§ 22-30-21

“The provisions of this chapter shall apply to transporters regulated under the provisions of P.L.91-458, enacted by the congress of the United States October 16, 1970; provided, however, such transporters shall be subject only to standards equivalent to and no more stringent than standards in the Resource, Conservation and Recovery Act of 1976, as amended, 42 U.S.C. §§ 6901 et seq., or regulations promulgated thereunder.”

**Section 3.** All laws or parts of laws, special, local or general, which conflict or are inconsistent with this Act are hereby repealed, insofar as such laws or parts of laws conflict or are inconsistent with this Act.

**Section 4.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 8, 1984

Time: 1:45 P.M.

Act No. 84-51

H. 323—Rep. Adams

### AN ACT

Relating to the municipality of Phenix City, Alabama, so as to provide a procedure for the recall of city councilmen; to provide for the filling of offices vacated due to a recall election; to provide for a referendum regarding this act; to provide for implementation procedure and to provide for certain effective dates.

**Section 1.** Relating to the municipality of Phenix City, Alabama, the qualified electors of said municipality may file with the probate judge a petition asking for the recall of a city councilman.

For the purposes of this act the term city councilman shall mean the mayor, the councilman at large and all district councilmen. Such petition shall contain a general statement of the ground or grounds on which such recall is sought, which statement is intended for the information of the electors, and the electors shall be the sole and exclusive judges of the legality, reasonableness and sufficiency of such ground or grounds assigned for such recall, and said ground or grounds shall not be open to review. The petition shall contain the names of such a number of electors equal to 20 percent of the electors of the municipality registered and qualified to vote for the particular elected office to which the petition pertains. The electors signing the petition must be qualified to vote for a successor to the councilman whose recall is sought. Such a petition may be by a number of instruments as well as by one instrument. Each person signing such petition shall sign his name in full and shall set opposite his name his address, the precinct and the district in which his name appears as a qualified voter. No signature shall be sufficient unless it is accompanied by the information required by the preceding sentence. No person other than a qualified elector shall sign such a petition, no person shall sign the name of another to any such petition whether with or without authority from such person and no person shall sign more than one separate instrument which is a part of a single petition. No qualified elector who has signed a petition provided for in this section can withdraw his signature.

When a petition is presented to the probate judge, it shall be his duty to hear and determine all questions as to whether the petition complies with the requirements of this section, the genuineness of the signatures thereon, the correctness and adequacy of the information given by each person signing the petition, the qualifications of electors signing such petition and whether the signatures were obtained in any manner not authorized by law. Should the probate judge decide any of the above questions adversely to those persons presenting the petition, it shall be his duty to return the petition with a written statement of the details of its insufficiency to such persons, and such persons shall have 10 days after the receipt of such petition and statement to have the said petition signed as required by law, at the end of which time they may again present such petition to the probate judge for reexamination. If the probate judge finds that the petition as originally submitted or as resubmitted to him complies in every respect with the requirements of this section, he shall issue his certificate so stating, and such certificate shall be attached to the petition.

**Section 2.** A copy of the petition provided for in section 1 together with the certificates of the probate judge, shall be delivered to the city council at a regular meeting thereof, and if the council-

man named therein shall not resign from office on or before the next regular meeting of the council then the council shall at such next regular meeting order an election to be held by the municipality not less than 30 days nor more than 60 days from the date of said meeting at which election the question shall be put whether the said councilman shall be recalled. Notice of such election shall be published in a newspaper once a week for three successive weeks. Only those electors entitled to vote for the elected office in question may vote in said election. There shall be printed on the official ballot, as to every councilman whose recall is to be voted on, the words, "Shall (name of person against whom the recall petition is filed) be recalled from the office of (title of the office)?" Following such question shall be the words, "Yes" and "No," on separate lines, with a blank space at the right of each, in which the voter shall indicate, by marking a cross (x), his vote for or against such recall. If a majority of the electors at said election vote for the recall from office of the said councilman and the number so voting in favor of such recall shall be equal to or greater than 20% of the registered voters of the municipality entitled to vote for that particular office, the said councilman's right to office shall terminate when the results of the election are declared and the said councilman shall stand recalled; otherwise, he shall continue in office as if no election had been held. Another recall election may not be held involving the same councilman during the councilman's remaining term of office.

**Section 3.** If a council post is vacated due to a recall election with twelve months or more remaining in the term, a special election shall be called by the mayor or, if the mayor is recalled, by the mayor pro tem. Such special election shall be held and conducted, the returns thereof made and certificates given and the election regulated in all respects by the provisions of the election of councilmen as provided by law. If a council post is vacated due to a recall election with less than twelve months remaining in the term, the vacancy shall be filled by the council at any regular meeting within four weeks after the vacancy occurs. In event of a deadlock and for the purpose of breaking the deadlock, the mayor shall cast an additional vote. If the mayor is recalled then the mayor pro tem shall cast an additional vote to break the deadlock. For the purposes of this section a deadlock shall be deemed to exist when, at the end of the third regular meeting of the council following the creation of a vacancy, the council shall not have selected a person to fill the vacancy. The persons selected to fill a vacancy shall possess all of the qualifications required by law including residence in the district he represents, and he shall hold office until the next election of councilman.

**Section 4.** No person shall misrepresent or make any false

statement concerning the contents, purport or effect of any petition for recall to any person for the purpose of obtaining any signature or for the purpose of persuading any person; nor shall any person circulate or cause to be circulated any such petition, knowing it contains any false, forged or fictitious names.

No person shall for any pecuniary award or personal gain:

(i) Offer, propose, threaten or attempt to sell, hinder or delay any such petition or any signatures thereon;

(ii) Offer, propose or threaten to desist from beginning, promoting or circulating any such petition or soliciting signatures therefor;

(iii) Offer, propose, attempt to threaten in any manner or form to use any such petition or any power of promotion or opposition concerning such petition in any manner or form for extortion, blackmail or secret or private intimidation of any person or business interest.

**Section 5.** The municipality of Phenix City shall call and provide for holding an election for the qualified electors of the municipality at which there shall be submitted the following question: "Do you favor the implementation of Act \_\_\_\_\_, \_\_\_\_\_, 19\_\_\_\_\_ Session, pertaining to Phenix City, providing for the recall of city councilmen? Yes ( ) No ( )." The voter shall place a cross mark (x) beside his choice. The proper election officer shall insert the correct citation of this act in the question.

If Section 5 of this act is enacted within the necessary time period, the election shall be held at the same time as the presidential primary election of 1984, the second Tuesday in March. If the election is not held on the second Tuesday in March, then an election shall be called by the city governing body within 60 days after this act or a portion thereof is enacted by the legislature. The election shall be held and conducted, and the results thereof shall be canvassed, declared and published, in the manner provided by law for city elections. All expenses of the election shall be paid by the city.

**Section 6.** This act shall be read in pari materia with Act 71, H. 114, 1977 Regular Session, (Acts 1977, P 78), as amended. All other laws or parts of laws which conflict with this act are hereby repealed.

**Section 7.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 8.** Section 5 of this act shall become effective immediately upon its passage and approval by the Governor, or upon its



otherwise becoming a law. The remainder of this act shall only become effective if a majority of the electors participating in the referendum provided in Section 5 vote in favor of implementing this act. If said majority does not vote in favor of implementation, this act shall be null and void.

Approved March 8, 1984

Time: 3:20 P.M.

Act No. 84-52

S. 218—Senator Dial

### AN ACT

Relating to Cleburne County; providing for the establishment of a consolidated and unified system for assessment and collection of taxes, under the supervision of an elected county official designated as county revenue commissioner, providing for the compensation of such official, abolishing the offices of tax assessor and tax collector, repealing conflicting laws; and providing for a referendum thereon.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** After September 30, 1985, or upon occurrence of a vacancy in either the office of tax assessor or tax collector, there shall be a county revenue commissioner in Cleburne County. A commissioner shall be elected at the general election in 1984 and at the general election every six years thereafter, who shall serve for a term of six years beginning on the first day of October next after his election, and until his successor is elected and has qualified.

**Section 2.** The county revenue commissioner shall do and perform all acts, duties, and functions required by law to be performed either by the tax assessor or by the tax collector of the county relative to the assessment of property for taxation, the collection of taxes, the keeping of records and the making of reports concerning assessment for and the collection of taxes.

**Section 3.** Subject to the approval of the county commission, the county revenue commissioner shall appoint and fix the duties and compensation of a sufficient number of deputies, clerks, and assistants to perform properly the duties of his office. The acts of deputies shall have the same force and legal effect as if performed by the county revenue commissioner himself.

**Section 4.** Before entering upon the duties of his office, the county revenue commissioner shall take the oath of office prescribed by Article XVI of the Constitution of Alabama, and execute a bond in such sum as may be fixed by the county commission, giving as security thereon a bonding company authorized to do business in Alabama. The bond shall be conditioned as other official bonds are

conditioned and shall be approved by and filed with the judge of probate. The cost of the bond required herein shall be paid out of the general funds of the county on warrant of the county commission, and shall be a preferred claim against the county.

**Section 5.** The county commission shall provide the necessary offices for the county revenue commissioner, and shall provide all stationery, equipment, and office supplies, not otherwise furnished by law, needed for the efficient performance of the duties of the office.

**Section 6.** The county revenue commissioner shall collect and pay into the general fund of the county all fees, percentages, commissions and other allowances which the tax assessor or the tax collector of the county are now or hereafter may be by law authorized and directed to charge or collect for the performance of any duty hereby imposed on the county revenue commissioner. As compensation for the performance of the duties of his office, the county revenue commissioner shall receive an annual salary of \$25,000, payable in equal monthly installments out of the general fund of the county.

**Section 7.** The offices of the tax assessor and tax collector of Cleburne County are hereby abolished effective the first day of October, 1985, or upon the occurrence of a vacancy in the office of tax assessor or tax collector. In the event that the office of tax assessor or tax collector becomes vacant before October 1, 1985, the office of county revenue commissioner shall immediately come into being, and the remaining officer, tax assessor or tax collector, as the case may be, shall immediately assume the duties of the office of county revenue commissioner and shall perform such duties until a county revenue commissioner has been elected as provided herein. For the performance of such duties, he shall be entitled to the salary herein above prescribed for the county revenue commissioner.

**Section 8.** It is the purpose of this act to promote the public convenience in Cleburne County by consolidating the offices of tax assessor and tax collector into one office.

**Section 9.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 10.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 11.** This act shall become effective upon approval by a majority of the qualified electors of Cleburne County who vote thereon at a referendum election held for such purpose as required by amendment No. 411 of the Constitution of Alabama. The election

shall be held and conducted as nearly as may be in the same way as elections on amendments to the Constitution, and shall be held on the same day as the next special, primary or general election next following final passage of this Act. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the local law providing for a consolidated system for assessment and collection of taxes under an elected county official and abolishing the offices of tax assessor and tax collector? Yes ( ) No ( ).” If a majority of the votes cast at the election are affirmative votes, this Act shall be in full force and effect immediately thereafter. If a majority of the votes cast are in the negative, the act shall have no further force or effect. The judge of probate of Cleburne County shall certify the results of the election to the Secretary of State.

Approved March 8, 1984

Time: 4:20 P.M.

Act No. 84-53

H. 159—Rep. Holley

### AN ACT

To repeal Act No. 81-889, S. 32 of the 1981 First Special Session, (Acts 1981 Special Session, p. 25), which proposes a Constitutional Amendment on budgetary matters and the legislative process.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Alabama Legislature has researched and finds, inter alia:

1. The Legislature convened, in response to the Governor's proclamation, in its First Special Session of 1981, commencing August 4, 1981, and enacted Act No. 81-889, S. 32, proposing an amendment to the Constitution of Alabama of 1901 which would require that during each regular session of the Legislature, until such time as bills making appropriations for the ensuing fiscal year have been signed by the presiding officer of each house, no bill, other than a bill making any part of said appropriations, could be signed by either the presiding officer of the House or Senate and transmitted to the other house. Act No. 81-889 further provided that the ratification election for this proposed Constitutional Amendment would be held at the first statewide primary or general election after the expiration of three (3) months from the final adjournment of the session during which the bill had been enacted.

2. The Legislature convened, in response to the Governor's proclamation, in its Third Special Session of 1981, commencing November 3, 1981, during which it enacted Act No. 81-1190, H.J.R. 75, Third Special Session, 1981, approved December 4, 1981, which redesignated the date for the ratification election of the Constitutional Amendment proposed by Act No. 81-889 as follows:

" . . . provided, however, the Constitutional Amendment proposed by Act No. 81-889, S. 32, 1981 First Special Session, shall be placed on the September 1982 primary or the November 1982 general election."

3. The Legislature convened in Regular Session, as provided by law, on January 12, 1982, during which it passed three resolutions relating to said Act No. 81-889.

(a) Act No. 82-414, H.J.R. 165, 1982 Regular Session, was passed by the House on March 23, 1982, and by the Senate on April 8, 1982, and provided in pertinent part

"BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the election dated on the September 1982 primary or the November 1982 general election ballot, as designated by Act No. 81-1190, H.J.R. 75, Third Special Session 1981, is hereby rescinded and the said constitutional amendment proposed by Act No. 81-889 shall be on the ballot at the first primary or general election in 1984."

(b) Following the passage of H.J.R. 165, the Legislature enacted Act No. 82-270, H.J.R. 166, 1982 Regular Session, which was passed by the House on March 23, 1982, and by the Senate on April 8, 1982. H.J.R. 166, provided in pertinent part:

"BE IT RESOLVED BY THE ALABAMA LEGISLATURE, BOTH HOUSES THEREOF CONCURRING, That the Secretary of State return to it forthwith for further consideration Act No. 81-889, S. 32 of the First Special Session 1981.

BE IT RESOLVED FURTHER, That the election date on the September 1982 primary or the November 1982 general election ballot, as designated by Act No. 81-1190, H.J.R. 75, Third Special Session, 1981, is hereby rescinded."

Pursuant to this resolution, the Secretary of State on April 19, 1982, returned Act No. 81-889 to the House of Representatives, further requesting that:

"[W]hatever the ultimate disposition of this proposed Constitutional Amendment, I trust that it will be returned to the Office of the Secretary of State within 10 days after the adjournment of the current session. . . ."

Following the close of the 1982 Regular Session, no further action having been taken by the Legislature respecting the substantive proposal embodied by Act No. 81-889, said Act No. 81-889 was delivered by the Clerk of the House to the Secretary of State as unfinished and non-viable business pursuant to Code of Alabama 1975, Sections 29-1-16 and 17.

(c) H.J.R. 165, having been erroneously sent to the Governor in contravention of Section 125 of the Constitution of 1901, the Legislature on April 26, 1982, enacted Act No. 82-413, H.J.R. 386, 1982 Regular Session, which provided:

**"RETURNING H.J.R. 165, 1982 REGULAR SESSION, TO THE SECRETARY OF STATE FOR CUSTODY AND ASSIGNMENT OF ACT NUMBER.**

**"WHEREAS, the Alabama Legislature enacted H.J.R. 165, by passage in the Alabama House of Representatives on the 20th legislative day, March 23, 1982, and adoption in the Alabama Senate on the 26th legislative day, April 8, 1982, and now finds it in its possession; and**

**"WHEREAS, said H.J.R. 165 resets the election date for Act No. 81-889, S. 32 of the First Special Session 1981, and rescinds the date therefor for the proposed constitutional amendment on budgetary matters; and**

**"WHEREAS, the said H.J.R. 165 stated in pertinent part that:**

**" 'BE IT FURTHER RESOLVED, That in accordance with Section 125 of the Constitution of 1901, this resolution relating to a proposed constitutional amendment and the election thereon, does not require the signature of the Governor and the original of same shall not be sent to him;' and**

**"WHEREAS, any purported executive veto of any order, vote or resolution on questions of, inter alia, 'the bringing on of elections by the two houses and amending this Constitution' can be only a nullity and is without the constitutional authority of the Governor; now therefore,**

**"BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do, in accordance with Sections 125, 284 and 287, Constitution of Alabama 1901, return H.J.R. 165, 1982 Regular Session, to the Secretary of State and hereby direct that he assign an Act number to said H.J.R. 165, abide by the requirements prescribed therein and keep such document which relates to amending the Constitution and election date called therefor within the exclusive possession of his official capacity, so that the ballot shall be prepared and the date pro-**

claimed as designated in H.J.R. 165, 1982 Regular Session.

**"BE IT FURTHER RESOLVED**, That we do direct the Clerk of the House to cause delivery forthwith directly to the Secretary of State and that no copies of this resolution shall be sent to the Governor."

Consequently, H.J.R. 1665, set a date for a ratification vote on the Constitutional Amendment proposed by Act No. 81-889 which Act No. 81-889 had been recalled by the Legislature and stayed in the possession of the House; H.J.R. 165 was recovered from the Governor by the Secretary of State and assigned an Act number, Act No. 82-413. However, no further legislative action had been taken after its recall on Act No. 81-899 and remained in the House with no final action thereon.

4. The Legislature convened, in response to the Governor's proclamation, in its Second Special Session of 1982, commencing June 21, 1982, during which it enacted Act No. 82-705, H.J.R. 58, Second Special Session, 1982, approved July 8, 1982, which provided in pertinent part:

**"BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING**, That the constitutional amendments proposed by Acts 82-171, H.B. 652; 82-299, H.B. 689; and 82-332, S.B. 110, shall be presented to the voters at an election to be held on September 7, 1982.

**"The constitutional amendments proposed by Acts 82-78, H.B. 54; 82-100, S.B. 328; 82-151, H.B. 574; 82-200, H.B. 651; 82-201, H.B. 48; 82-202, S.B. 454; 82-329, S.B. 546; 82-333, S.B. 502; 82-215, H.B. 741; 82-216, H.B. 742; 82-217, H.B. 760; and 82-630, H.B. 94 shall be presented to the voters at an election to be held on September 28, 1982.**

**"The constitutional amendments proposed by Acts No. 82-300, S.B. 302; 82-330, S.B. 468; 82-331, H.B. 616; 82-96, H.B. 473; and 82-214, H.B. 734 shall be presented to the voters at an election to be held on November 2, 1982.**

**"BE IT FURTHER RESOLVED**, That all constitutional amendments not enumerated herein shall be presented to the voters on November 2, 1982."

5. The Justices of the Supreme Court of Alabama have on former occasions advised the Legislature that acts proposing Constitutional Amendments could be recalled by the Legislature by resolution for further consideration, and have also advised that the Legislature may by resolution validly and constitutionally redesignate the election date for proposed Constitutional Amendments.

Opinion of the Justices, 252 Ala. 89, 39 So.2d 665 (1949); Opinion of the Justices, 252 Ala. 89, 39 So.2d 665 (1949); Opinion of the Justices, 275 Ala. 372, 155 So.2d 329 (1963); Opinion of the Justices, No. 300, Ala., 418 So.2d 107 (1982).

6. It is the sense of the Legislature that sound public policy requires that a Constitutional Amendment should not be submitted to the voters for ratification several years after the act proposing such Constitutional Amendment has been promulgated by the Legislature.

7. There exists a serious contention which is apparently valid that Act No. 81-889, S. 32, First Special Session, 1981, was returned to the Legislature by Act No. 82-270, H.J.R. 166, Regular Session 1982, and subsequently never finally enacted by the Legislature, thus remaining non-viable.

8. Act No. 82-705, H.J.R. 58, Second Special Session 1982, is the most recently enacted statute respecting the date for ratification of Act No. 81-889, S. 32, First Special Session, 1981, said date having been set at November 2, 1982, if in fact Act No. 81-889 has not been validly returned to the Legislature by Act No. 82-270, H.J.R. 166, Regular Session, 1982, and never finally enacted by the Legislature.

**Section 2.** Act No. 81-889, S. 32 of the 1981 First Special Session (Acts 1981 Special Session, p. 25) is hereby specifically repealed.

**Section 3.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 4.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 8, 1984

Time: 4:20 P.M.

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Act No. 84-54

S.J.R. 40—Senator Dial

### SENATE JOINT RESOLUTION

COMMENDING THE COLLINSVILLE PANTHERS FOOTBALL TEAM FOR ITS OUTSTANDING SEASON.

WHEREAS, the Collinsville Panthers football team won the Area 12, Region 6 Class 1A Championship this past season with an outstanding 10-0 regular season record; and

WHEREAS, the 1983 Panthers were the first team with a perfect regular season record in the school's history; and

WHEREAS, this fine team advanced to the semi-finals of the state class 1A playoffs and posted an outstanding final record of 12 wins and 1 loss; and

WHEREAS, Head Coach Raymond Weaver and assistant coaches Johnny Edwards, Neil Thrash and Greg Meadows are due much credit not only for the sharp execution which this team displayed throughout the season but also for its class, courage, spirit and will to win; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we heartily commend the 1983 Collinsville Panthers football team for its outstanding record. BE IT FURTHER RESOLVED, That copies of this resolution be sent to principal Samuel Clanton, head coach Raymond Weaver, his assistant coaches and each team member.

Approved March 12, 1984

Time: 4:45 P.M.

Act No. 84-55

S.J.R. 41—Senator Teague

### SENATE JOINT RESOLUTION

COMMENDING MAJOR BOB R. MILNER FOR MERITORIOUS SERVICE WITH THE ALABAMA DEPARTMENT OF PUBLIC SAFETY.

WHEREAS, the Legislature of Alabama notes with highest commendation the exemplary service of Major Bob R. Milner with the Alabama Department of Public Safety, January 10, 1954—March 1, 1984; and

WHEREAS, following his first employment with the department's Highway Patrol Division at Pell City, Alabama, Major Milner served variously in Alex City, Grove Hill, Opelika and Montgomery, rapidly rising through the ranks of corporal, sergeant and lieutenant; and

WHEREAS, he was promoted to captain on April 3, 1967, at which time he transferred to the Service Division to head the Alabama Police Academy; following his next transfer to the Administrative Division as personnel officer, Major Milner was promoted to his present rank on December 10, 1969, and became Chief of the Service Division; and



WHEREAS, Major Milner's current and retirement position is that of Chief of the Alabama Bureau of Investigation, which tenure began November 29, 1978; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein most highly commend Major Bob R. Milner for dedicated service and extraordinary accomplishment throughout his distinguished career with the Alabama Department of Public Safety.

BE IT FURTHER RESOLVED, That Major Milner be presented with a copy of this resolution which is tendered in highest praise and in expression of our sincere best wishes for his every continuing success.

Approved March 12, 1984

Time: 4:45 P.M.

Act No. 84-56

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S.J.R. 42—Senators Smith (B), Aldridge, Amari, Bailey, Barron, Bedford, Bedsole, Bennett, Bishop, Cabaniss, Cooley, Corbett, Covington, deGraffenried, Denton, Dial, Dixon, Drinkard, Ellis, Figures, Foshee, Goodwin, Hand, Hilliard, Holmes, Langford, Little, Menton, Mitchem, Parsons, Pearson, Sanders, Smith (J), Strong and Teague

### SENATE JOINT RESOLUTION

#### COMMENDING THE UNIVERSITY OF ALABAMA'S NATIONAL CHAMPIONSHIP CHEERLEADERS.

WHEREAS, the Alabama Legislature notes with pride the latest in a long series of National Championships amassed by the University of Alabama; and

WHEREAS, on this occasion it was the University's cheerleaders who brought home the Title in the National Cheerleader Competition sponsored by Ford Motor Company; and

WHEREAS, it is to be noted that from an original 100-plus competing squads, nationwide, the field was narrowed to just eight teams, including the Crimson Tiders, who participated in the finals

held in Honolulu, January 9-13, 1984; and

WHEREAS, the University of Alabama's National Champion Cheerleaders are Carla Knight, Ty Hare, Jeri Arendall, Sam Lovinood, Lisa Davis, Chip Shields, Lisa Grider, Carl Dann, Julie Smelser, Jon Turner, Marti Glaze and Doug Ruggles; Travis Wimberly serves as "Big Al," Joseph Johnson leads the cheers, Scott Erwin is the squad's manager and faculty advisor is Ms. Kathleen Randall; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in deep personal pride and pleasure, we hereby most highly commend and congratulate our National Champions, the University of Alabama Cheerleaders; we further share and rejoice in their accomplishments and direct that copies of this resolution be forwarded to the UA cheerleaders and to the University.

Approved March 12, 1984

Time: 4:45 P.M.

Act No. 84-57

S.J.R. 43—Senators Goodwin, Holmes, Aldridge, Amari, Bailey, Barron, Bedford, Bedsole, Bennett, Bishop, Cabaniss, Cooley, Corbett, Covington, deGraffenried, Denton, Dial, Dixon, Drinkard, Ellis, Figures, Foshee, Hand, Hilliard, Langford, Little, Menton, Mitchem, Parsons, Pearson, Sanders, Smith (B), Smith (J), Strong and Teague

### SENATE JOINT RESOLUTION

MEMORIALIZING THE PRESIDENT AND CONGRESS OF THE UNITED STATES TO IMMEDIATELY APPOINT A SPECIAL PANEL, TASK FORCE OR COMMISSION TO STUDY THE ENTIRE JUDICIAL SYSTEM OF THE UNITED STATES.

WHEREAS, the Judicial System of the United States has developed into an overly expensive, overly time consuming, inefficient and inadequate method of enforcing the laws of the United States and of the various states and in insuring the rights and privileges of

the citizens of this country, and

WHEREAS, the Judiciary, the Bar Association, and lawyers and judges as a whole have suffered and are suffering tremendous slippages in public esteem and public approval, and

WHEREAS, the Governor of the State of Alabama, governors of other states, and the Chief Justice of the United States Supreme Court have, both publicly and privately expressed sincere and serious concerns over developments that have taken place in the judicial system of the United States, and

WHEREAS, it is difficult, if not impossible for any individual state to make meaningful improvements in their individual judicial systems, without such improvements being coordinated with improvements in the entire judicial system of the United States, and

WHEREAS, the citizens of the greatest nation on earth are entitled to a judicial system which is equally great, but which obviously does not exist at the present time, and

WHEREAS, it is past the time for meaningful judicial reform to take place in the United States, which reforms must be led by the Congress of the United States and the Executive Department of the United States government, with the several states thereafter implementing appropriate action, and

WHEREAS, this problem is of such magnitude and is of such tremendous negative impact on the lives, freedoms, and well-being of the citizens of the United States that immediate remedial action is dictated.

THEN THEREFORE, BE IT RESOLVED, by the Legislature of the State of Alabama, both houses concurring, and with the approval of the Governor of the State of Alabama, we do hereby implore the President of the United States, and the United States Congress to act immediately, by the appointing of a special panel, task force, or commission to study the entire judicial system of the United States, and the several states, under a charge to fully investigate this matter and to make appropriate findings of fact, suggestions, and recommendations which may be implemented and which will be designed to bring about meaningful affirmative changes in the judicial system of the United States.

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to the Governor, the President of the United States, the Alabama congressional delegation, and the Chief Justice of the United States Supreme Court.

Approved March 12, 1984

Time: 4:45 P.M.

Act No. 84-58

S.J.R. 51—Senator Teague

## SENATE JOINT RESOLUTION

INVITING PRESIDENTIAL CANDIDATE JOHN GLENN TO ADDRESS A JOINT SESSION OF THE ALABAMA LEGISLATURE.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein extend a most cordial invitation to Presidential Candidate Mr. John Glenn, to address the Alabama Legislature on March 1, 1984, on which date and at a time to be set, the Legislature shall convene in joint session to hear Mr. Glenn's remarks.

BE IT FURTHER RESOLVED, That the Secretary of the Senate is directed to forward a copy of this resolution to Mr. Glenn, in invitation to address the Legislature and in hopeful anticipation of his acceptance.

Approved March 12, 1984

Time: 4:45 P.M.

Act No. 84-59

S. 248—Senator Cooley

## AN ACT

Relating to Cullman County; to amend the title and Section 1 of Act No. 515, S. 755, 1977 Regular Session (Acts 1977, p. 681), which deals with "flea" markets operating on Sunday, so as to provide for nurseries and other businesses to operate on Sundays during certain business hours and providing that the provision of subsection (c) of Section 1 of this Act relating to businesses other than nurseries shall not become effective until approved at a referendum election held for such purpose.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The title of Act No. 515, S. 755, Regular Session 1977 (Acts 1977, p. 681) is hereby amended to read as follows:

"An Act Relating to Cullman County; providing for flea markets, nurseries and other businesses to operate on Sundays and providing that the provisions of Section 1(c) of this Act relating to businesses other than nurseries shall not become effective until approved at a referendum election."

**Section 2.** Section 1 of Act No. 515, S. 755, 1977 Regular Session (Acts 1977, p. 681) is hereby amended to read as follows:

"Section 1. (a) It shall be lawful for any 'flea' market, as defined herein, to remain open all day for business on Sunday in Cull-

man County. For the purposes of this Act the words 'flea market' shall mean and include any market place, street market or other place of business where cheap useful and ornamental objects or second hand goods or both are sold, bartered or exchanged.

"(b) It shall be lawful for any nursery or nursery dealer that engages in the selling of nursery stock to remain open all day for business on Sunday in Cullman County.

"(c) It shall be lawful for all other merchants or shopkeepers, not otherwise allowed to open on Sunday, to remain open for business on Sunday in Cullman County from 1:00 p.m. until 6:00 p.m. No employee of any business opened on Sunday under provisions of this Act shall be discharged because they have refused to work on Sunday.

"It is further provided that this subsection shall be inoperative and void unless it shall have been approved by a majority of qualified electors of Cullman County who vote thereon at a referendum election held for such purpose. The election shall be held and conducted as nearly as may be in the same way as elections on amendments to the Constitution, and shall be held on the same day as the March 13, 1984 primary election held after final passage of this Act. Notice of the election may be given by the judge of probate of Cullman County, which notice may be published before the day of the election, the expense of which shall be paid by the Cullman County Commission. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

"Should any merchant or storekeeper in Cullman County be allowed to remain open for business from 1:00 p.m. until 6:00 p.m. on Sunday?

Yes (    )      No (    ).

"If a majority of the votes cast at the election are affirmative votes, this subsection shall be in full and effect immediately thereafter. If a majority of the votes cast are negative, this subsection shall have no further effect. The judge of probate of Cullman County shall certify the results of the election to the Secretary of State within thirty days after the returns have been canvassed.

"Section 2. Any merchant or shopkeeper that remains open at any time on Sunday which is contrary to the restrictions set out in Section 1 of this Act, in addition to the criminal penalty as set out in Code of Alabama 1975, Section 13A-12-1, as amended, shall be enjoined from remaining open on Sunday, by the Circuit Judge, upon petition filed on behalf of the State of Alabama by the District Attorney, Assistant District Attorney or other state prosecutor."

**Section 3.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 5.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 12, 1984.

Time: 4:45 P.M.

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Act No. 84-60

H.J.R. 6—Rep. Johnson, Roy

### HOUSE JOINT RESOLUTION

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That when we adjourn today, Tuesday, February 7, 1984, we adjourn to meet again on Thursday, February 9, 1984; Tuesday, February 14, 1984; Thursday, February 16, 1984; Tuesday, February 21, 1984; Thursday, February 23, 1984; Tuesday, February 28, 1984; Thursday, March 1, 1984; Wednesday, March 7, 1984; Thursday, March 8, 1984; Tuesday, March 20, 1984; Thursday, March 22, 1984; Tuesday, March 27, 1984; and Thursday, March 29, 1984.

Approved March 13, 1984

Time: 9:55 A.M.

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Act No. 84-61

H.J.R. 58—Rep. Bugg

### HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF FIRE CHIEF DON WILEY AYERS OF REECE CITY, ALABAMA.

WHEREAS, it is with deep sadness and regret that the Alabama Legislature records the death of Fire Chief Don Wiley Ayers of Reece City, Alabama, on January 19, 1984, at the early age of just 47 years;

WHEREAS, a native and lifelong resident of Etowah County and, by profession a pharmacist associated with Baptist Memorial Hospital, Mr. Ayers was serving his second term as chief of the

Reece City Volunteer Fire Department, the organization he was instrumental in establishing some nine years ago; and

WHEREAS, Mr. Ayers, who also was a former city councilman, lived only to serve the community he loved so well; this love for his home town and fellow citizens was demonstrated time and again through his works, his leadership and even self-sacrifice on behalf of others; and

WHEREAS, the death of Don Wiley Ayers has indeed left a deep void in the lives and hearts of all those he so greatly benefited during his lifetime; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we grieve, we give thanks for the life and service of Mr. Don Wiley Ayers of Reece City, Alabama; we further extend our very deepest sympathy to his daughter and son, Shannon and Brandon Ayers, and to other family members to whom a copy of this resolution shall be sent in expression of our concern for them in their time of such deep sorrow.

Approved March 13, 1984

Time: 9:55 A.M.

Act No. 84-62

H.J.R. 61—Rep. Blakeney

### HOUSE JOINT RESOLUTION

COMMENDING THE THOMASVILLE, ALABAMA, JUNIOR WOMEN'S CLUB FOR OUTSTANDING ACCOMPLISHMENT.

WHEREAS, when it was learned that young Megan Smith of Thomasville, Alabama, could not survive without a liver transplant, the local Junior Women's Club resolved to raise the necessary \$80,000.00 to pay anticipated medical expenses for Megan; and

WHEREAS, after placing the first news story in the *Thomasville Times* on June 23, 1983, the 17 members of the Thomasville Junior Women's Club initiated their fund-raising drive which reached \$2,277.89 on July 7, 1983; and

WHEREAS, the membership, totally committed to their project, then redoubled their efforts to help little Megan Smith, dedicating their time, energy and talents to reaching their goal of \$80,000 from a small town with a population of just 4500; and

WHEREAS, the Megan Smith story, however, transcended local

bounds and donations were being made both statewide and nationally; and

WHEREAS, by August 13, 1983, "Megan Smith Day" as proclaimed by Governor George Wallace and Thomasville Mayor Nathan Stephens, the fund reached more than \$200,000 and today totals in excess of \$300,000; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend the Thomasville Junior Women's Club for outstanding accomplishment; we sincerely praise the membership for their dedicated and unselfish efforts on behalf of young Megan Smith, and direct that the Club receive a copy of this resolution in small token of our highest regard.

Approved March 13, 1984

Time: 9:55 A.M.

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Act No. 84-63

H.J.R. 65—Rep. Mitchell

### HOUSE JOINT RESOLUTION

NAMING THE MAINTENANCE SHOP BUILDING AT THE NORTHPORT NATIONAL GUARD ARMORY THE "GEORGE H. MAYFIELD MAINTENANCE SHOP."

WHEREAS, Master Sergeant George Hugh Mayfield retired from the Alabama National Guard on December 16, 1982, following 34 years, six months and 25 days of military service including some three years active duty with the United States Army during World War II; and

WHEREAS, Sergeant Mayfield's December 31, 1982, retirement from the Alabama National Guard Technician Force, as organizational maintenance shop foreman, OMS #9, Northport, Alabama, concluded 31 years, six months and 25 days of technician service; and

WHEREAS, Sergeant Mayfield, a qualified rifleman and carbine sharpshooter, received numerous decorations and citations during his distinguished military career and he has been most particularly cited for meritorious service as organizational Maintenance Shop Chief from 1953 to 1982, during which time his commendable performance of duty and deep sense of personal honor reflected great credit upon himself and the Alabama National Guard; and

WHEREAS, in appreciation for outstanding service and in trib-



ute to his many contributions as organizational maintenance shop foreman, it is entirely fitting that Sergeant Mayfield be appropriately honored by the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby name and designate the maintenance shop building at the Northport National Guard Armory, the "George H. Mayfield Maintenance Shop."

BE IT FURTHER RESOLVED, That the proper authorities are hereby directed to erect and maintain appropriate signs and markers so designating said building as the "George H. Mayfield Maintenance Shop."

RESOLVED FURTHER, That Sergeant Mayfield receive a copy of this resolution as a memento of this honorary designation of the Alabama Legislature.

Approved March 13, 1984

Time: 9:55 A.M.

Act No. 84-64

H.J.R. 68—Reps. Gaston, Kvalheim,  
Zoghby

### HOUSE JOINT RESOLUTION

RECOGNIZING RETIRED POLICE CHIEF WINSTON JONES ORR OF MOBILE, ALABAMA, FOR OUTSTANDING SERVICE.

WHEREAS, the Alabama Legislature notes with commendation the outstanding law enforcement career of Chief Winston Jones Orr of Mobile, Alabama, from April 1951 until his retirement on January 3, 1984; and

WHEREAS, during his prestigious tenure and prior to his promotion to Chief in 1981, Chief Orr headed every major division—Patrol, Traffic and Criminal Investigation—of the Mobile Police Department; and

WHEREAS, a United States Army veteran who served with the Occupation Forces in Japan, Chief Orr is a graduate of Northwestern Traffic Institute and a member of both the Fraternal Order of Police and the International Association of Chiefs of Police; and

WHEREAS, he also is a past president of the Alabama Association of Chiefs of Police, member of the board of directors and a past president of Penelope House, and serves on the board of directors of

the Southwest Alabama Council on Alcoholism; now therefore,

**BE IT RESOLVED BY THE ALABAMA LEGISLATURE, BOTH HOUSES THEREOF CONCURRING,** That we join with the citizens of Mobile, Alabama, in expressing deepest gratitude for the dedicated, laudable and longtime service of Police Chief Winston Jones Orr.

**BE IT FURTHER RESOLVED,** That Chief Orr receive a copy of this resolution bespeaking the sincere warm praise and highest regard of the Alabama Legislature.

Approved March 13, 1984

Time: 9:55 A.M.

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Act No. 84-65

H.J.R. 69—Reps. Gaston, Kvalheim

### HOUSE JOINT RESOLUTION

**COMMENDING MS. BARBARA ELY PRUDHOMME OF MOBILE, ALABAMA.**

**WHEREAS,** the Alabama Legislature notes with highest commendation the selection of Ms. Barbara Ely Prudhomme of Mobile, Alabama, as Mobile's Handicapped Professional Career Woman for 1983-84; and

**WHEREAS,** Ms. Prudhomme, who holds the Bachelor and Master of Arts degrees from the University of South Alabama, currently serves as Assistant to the Director of Human Resources at Quality Micro Systems; and

**WHEREAS,** her extraordinary career also includes former tenures as counselor with the Southeast Alabama Rehabilitation Center; psychologist, teacher, resident counselor and rehabilitation team captain at the Albert P. Brewer Developmental Center; and job search counselor with the Equal Opportunities Pilot Program for Mobile and Baldwin Counties; and

**WHEREAS,** Ms. Prudhomme's affiliations include the National Rehabilitation Association, Work Adjustments Association for Vocational Educators and Saint Dominic's Catholic Church; she further is the recipient of the M. O. Beale Scroll of Merit, the President's Committee on the Employment of Handicapped Award, and she was selected to carry an Olympic Torch for the 1984 Games; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we hereby most

highly commend Ms. Barbara Ely Prudhomme of Mobile, Alabama, for outstanding achievement; we further congratulate her as Mobile's Handicapped Professional Career Woman for 1983-84 and direct that she receive a copy of this resolution evidencing our highest regard for her accomplishments.

Approved March 13, 1984

Time: 9:55 A.M.

Act No. 84-66

H.J.R. 78—Rep. Onderdonk

### HOUSE JOINT RESOLUTION

DESIGNATING "SPECIES BASILOSARUS CETOIDES," THE ANCIENT WHALE FOSSIL AS THE OFFICIAL ALABAMA FOSSIL.

WHEREAS, the Alabama Legislature notes that the ancient whale "Species Basilosaurus Cetoides," named after the forty million year old whale fossil was discovered in Washington County, Alabama; and

WHEREAS, this ancient whale fossil is most abundant in the State of Alabama, and two of the most comprehensive skeletons of the "Species Basilosaurus Cetoides" were discovered in Alabama, one discovered by Mr. Ronald "Bones" Rhoads and now located in the Red Mountain Museum, Birmingham, Alabama, and the second, a fifty-five foot skeletal exhibit, is on display in the Smithsonian Institute, Washington, D.C.; and

WHEREAS, the Alabama Legislature feels it is most appropriate that the interest in and the study of this ancient aquatic mammal predator, with serrated posterior molars, be encouraged and perpetuated for scientific and historical reasons; now therefore,

BE IT RESOLVED BY THE ALABAMA LEGISLATURE, BOTH HOUSES THEREOF CONCURRING, That the Alabama Legislature does hereby designate as the official State of Alabama Fossil the "Species Basilosaurus Cetoides."

RESOLVED FURTHER, That no fossil "Species Basilosaurus Cetoides" shall be removed from the State of Alabama, in whole or in part, except by prior written approval of the Governor.

BE IT FURTHER RESOLVED, That copies of this resolution shall be sent to the Washington County governing body, the Director of the Department of Archives and History, the Governor and to the Red Mountain Museum, Birmingham, Alabama, for appropriate

display.

Approved March 13, 1984

Time: 9:55 A.M.

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Act No. 84-67

H.J.R. 79—Rep. Browder

### HOUSE JOINT RESOLUTION

#### COMMENDING JACKSONVILLE STATE UNIVERSITY COACH JIM FULLER.

WHEREAS, Coach Jim Fuller's tenure as head coach at Jacksonville State University encompassed the years 1977-1983, during which time he achieved an overall record of 54-25-0; and

WHEREAS, he further coached JSU to four Gulf South Conference titles—in 1977, 1978, 1981 and 1982; he carried the Gamecocks to the NCAA Division II playoffs those same four years, as well as in 1980, with the team finishing second in 1977 and third in 1982; and

WHEREAS, Coach Fuller, named district NCAA Coach of the Year on three occasions and four times selected Gulf South Conference Coach of the Year, developed 15 Little All-America players while at JSU; numerous of his former players have joined the pro ranks while several have themselves become outstanding coaches; and

WHEREAS, though Coach Fuller recently resigned his position at Jacksonville State, we are pleased that his talent and ability remain Alabama assets in his new position as offensive line coach at the University of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Coach Jim Fuller on his outstanding career at Jacksonville State University, 1977-1983; we further wish him every success with the Alabama Crimson Tide and direct that he receive a copy of this resolution, tendered in sincere praise and highest personal regard.

Approved March 13, 1984

Time: 9:55 A.M.

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Act No. 84-68

H.J.R. 82—Reps. Laird, Fuller, Rice

## HOUSE JOINT RESOLUTION

**MOURNING THE DEATH OF JUDGE O. D. ALSOBROOK OF LAFAYETTE, CHAMBERS COUNTY, ALABAMA.**

WHEREAS, it is with deep sadness and regret that the Alabama Legislature records the death of Judge O. D. Alsobrook of Lafayette, Chambers County, Alabama, on August 2, 1983, at the age of 62 years; and

WHEREAS, Judge Alsobrook, a native of Cusseta, was serving at the time of his death in his 25th year as Chambers County Probate Judge, having begun his fifth six-year term in said elective office in January 1983; and

WHEREAS, Judge O. D. Alsobrook was, in consensus, one of our state's most prominent jurists and was an outstanding American patriot who served his country with courage and distinction during World War II and as a Captain with General George Patton's Third Army; he was a veteran of the Battle of the Bulge, among others, and his decorations included such distinguished citations as the Silver and Bronze Stars; and

WHEREAS, Judge Alsobrook further distinguished himself through involvement in numerous civic, charitable and community affairs, but most particularly in the areas of mental health and retardation; and

WHEREAS, though remembered for his accomplishments, both personal and professional, Judge Alsobrook is remembered most vividly for his love of people and his compassion for the less fortunate, and as a champion for the needs and rights of all mankind; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we grievously mourn the death of Judge O. D. Alsobrook of Lafayette, Alabama, and extend our deepest sympathy to those whose sorrow we share: his beloved wife and son, Mrs. Virginia Alsobrook and O. D. Alsobrook, III, his other family members and to the citizens of his beloved Chambers County.

Approved March 13, 1984

Time: 9:55 A.M.

## HOUSE JOINT RESOLUTION

INVITING PRESIDENT RONALD REAGAN AS A PRESIDENTIAL CANDIDATE TO ADDRESS A JOINT SESSION OF THE ALABAMA LEGISLATURE.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein extend a most cordial invitation to President Ronald Reagan, as a presidential candidate, to address the Alabama Legislature at his earliest convenience, on which date and at a time to be set, the Legislature shall convene in joint session to hear President Reagan's remarks.

BE IT FURTHER RESOLVED, That the Clerk of the House is directed to forward a copy of this resolution to President Reagan in invitation to address the Legislature and in hopeful anticipation of his acceptance.

Approved March 13, 1984

Time: 9:55 A.M.

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Act No. 84-70

S.J.R. 56—Senators Bailey, Aldridge, Strong

## SENATE JOINT RESOLUTION

INVITING PRESIDENTIAL CANDIDATE GARY HART TO ADDRESS A JOINT SESSION OF THE ALABAMA LEGISLATURE.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein extend a most cordial invitation to Presidential Candidate, Senator Gary Hart, to address the Alabama Legislature on March 8, 1984, at 10 a.m. at which time the Legislature shall convene in joint session.

BE IT FURTHER RESOLVED, That the Secretary of the Senate is directed to forward a copy of this resolution to Senator Hart in hopeful anticipation of his acceptance.

Approved March 13, 1984

Time: 9:55 A.M.

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Act No. 84-71

S.J.R. 73.—Senator Denton

## SENATE JOINT RESOLUTION

REQUESTING PRESIDENTIAL CANDIDATE WALTER

# **MONDALE TO ADDRESS A JOINT SESSION OF THE ALABAMA LEGISLATURE.**

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we herein extend a most cordial invitation to Presidential Candidate, Mr. Walter Mondale, to address the Alabama Legislature on Wednesday, March 7, 1984, and that the Legislature convene in joint session at 3:15 p.m. on said date to hear Mr. Mondale's remarks.

**BE IT FURTHER RESOLVED,** That in hopeful anticipation of Mr. Mondale's acceptance, we hereby direct the Secretary of the Senate to inform Mr. Mondale, by copy of this resolution, of this invitation of the Legislature.

Approved March 13, 1984

Time: 9:55 A.M.

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Act No. 84-72

S.J.R. 50—Senator Teague

## **SENATE JOINT RESOLUTION**

**PETITIONING THE PRESIDENT OF THE UNITED STATES TO REESTABLISH OFFICIAL GOVERNMENTAL RELATIONS WITH THE REPUBLIC OF CHINA AND PETITIONING THE CONGRESS OF THE UNITED STATES TO TAKE ANY NECESSARY ACTION TO PROVIDE SPECIFIC SECURITY GUARANTEES FOR THE REPUBLIC OF CHINA.**

**WHEREAS,** the Republic of China is a long-time friend, ally and trade partner of the United States; and

**WHEREAS,** the Republic of China holds a pivotal, strategic position in Asia and the Western Pacific which is vitally important to the interest and the defense of the United States; and

**WHEREAS,** the people of the Republic of China enjoy a democratic way of life, a high standard of living and fundamental human rights; and

**WHEREAS,** continued friendship and trade with the Republic of China is vitally important to the State of Alabama and the United States; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That the Legislature on behalf of the people of Alabama, petition the President to reestablish official governmental relations with the Republic of China, and that we petition the Congress of the United States to take all

necessary actions to provide specific security guarantees for the Republic of China.

**RESOLVED FURTHER**, That a copy of this resolution be transmitted to the President of the United States, the Speaker of the House of Representatives of the United States and to each member of the Alabama Congressional Delegation.

Approved March 21, 1984

Time: 1:55 P.M.

Act No. 84-73

H. 177—Rep. Coburn

### AN ACT

To amend Sections 25-4-55, 25-4-56, 25-4-57, 25-4-58, 25-4-70, 25-4-75 and 25-4-77, Code of Alabama 1975, as last amended so as to provide that the Special Federal Advance Interest Repayment Fund established by ACT 83-178 will be permanently available as mandated by P. L. 98-21, and to provide for disbursement therefrom, and for discontinuing assessments thereafter when no funds are due or needed; and to provide for disposition of any balances in such fund; to expand the provisions of the Code to provide for denial of benefits during customary vacation periods and holiday or other usual recesses to the same extent as now provided for between term and academic year periods; to provide denial of benefits to employees of certain educational service agencies to the same extent and under the same conditions as now provided for employees of educational institutions; and to define "educational service agencies"; and to exempt from disqualification from receiving benefits individuals whose failure to seek work was due to jury duty as defined herein.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 25-4-55, Code of Alabama 1975, as last amended, is hereby amended to read:

"§ 25-4-55. Payment of interest on moneys advanced by federal government ; Employer assessment; method of determining amount; procedures.

In addition to all other contributions required to be paid by the provisions of sections 25-4-51 and 25-4-54, when the unemployment compensation trust fund of this state has received advances from the federal government under the provisions of 42 USC 1321, each contributory employer shall be assessed an additional rate solely for the purpose of paying interest due on such federal advances. The additional rate assessed to any employer shall be determined by dividing the estimated amount of interest to be paid on such advanced moneys minus any balance in this special fund by 95 percent of the wages as defined in section 25-4-16 paid by all Alabama contributory employers during the immediately preceding calendar year. The amount to be paid by each employer shall be the product obtained



by multiplying such employer's wages as defined in section 25-4-16 for the calendar year immediately preceding the calendar year during which the advances became necessary by the rate as heretofore determined by provisions of this section. Each employer shall be notified of the amount of his or its assessment as required by this section not later than the 15th day of May next following the year in which such interest becomes due. Such amount shall be due and payable within 30 days of said notice and shall become delinquent on the day following such 30 days. Interest and penalties prescribed by the provisions of sections 25-4-132 and 25-4-133 shall be applied to late payments to the same extent and at the same rates as is provided for delinquent contributions. Procedures for enforcing payment of amounts due including interest and penalty, by any employer shall be prescribed by section 25-4-134. Nothing contained herein shall prevent the director of industrial relations from postponing the implementation of this section for one calendar year provided such postponement shall not delay collection later than required to pay accumulated interest when it becomes due to be paid nor shall it prevent him from making any further assessment if additional advances are made and/or additional interest becomes due."

**Section 2.** Section 25-4-56, Code of Alabama 1975, as last amended, is hereby amended to read:

"§ 25-4-56. Same - Creation of special interest payment fund; deposits, administration, etc.

There is hereby created a special fund, to be known as the "special interest payment fund," into which shall be deposited all moneys collected under the provisions of section 25-4-55. All moneys in the special interest payment fund shall be deposited, administered and disbursed in the same manner and under the same conditions and requirements as is provided by law in section 25-4-31.

Moneys in this fund shall be used by the director for the payment of interest on moneys advanced by the federal government, shall be continuously available to the director for expenditures in accordance with the provisions of sections 25-4-55 through 25-4-58 and appropriate federal laws and shall not lapse at any time. Any interest earned on moneys in this special fund shall accrue to the special fund."

**Section 3.** Sections 25-4-57, Code of Alabama 1975, as last amended, is hereby amended to read:

"§ 25-4-57. Same - Assessment to discontinue when all interest paid.

Payment of any assessment as provided under section 25-4-55 shall be discontinued for the calendar year next following the calen-

dar year during which all interest due to be paid on all advances has been paid. If it becomes necessary to borrow money from the federal government under the provisions of 42 USC 1321 subsequent to the calendar year in which all previously borrowed advances are repaid, assessments shall be made under the provisions prescribed in section 25-4-55.

**Section 4.** Section 25-4-58, Code of Alabama 1975, as last amended, is hereby amended to read:

“§ 25-4-58. Same - Transfer of moneys from fund when assessment discontinued.

When payment of assessments have been discontinued under the provisions of section 25-4-57, and all obligations of the director for interest on advances have been met, all remaining moneys in the special interest payment fund shall remain in this fund until such time as the balance in the unemployment trust fund equals at least 26 times the average weekly payment made from the unemployment trust fund during the immediately preceding fiscal year as defined in Section 25-4-4(b). Thereafter the director may on the immediately succeeding April 1 transfer any balances to the trust fund but in no event shall unexpended assessments remain in the special fund when the trust fund equals or exceeds 50 percent of the minimum normal amount on the preceding October 1, be and may thereafter be expended only in such manner and for such purposes as other moneys in the fund may be expended.”

**Section 5.** Section 25-4-70, Code of Alabama 1975, as last amended, is hereby amended to read:

“§ 25-4-70. Accrual; time and manner of payment.

(a) After contributions have been due under this chapter for two years, benefits shall become payable from the fund to any employee who thereafter is or becomes unemployed and eligible for benefits, and shall be paid through unemployment offices or such other agencies at such times and in such manner as the director may prescribe.

(b) Benefits based on service in employment defined in subdivisions (a) (2) and (a) (3) of section 25-4-10 shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this chapter; except, that:

(1) With respect to any week of unemployment beginning after December 31, 1977, benefits shall not be paid based on service in an instructional, research, or principal administrative capacity for any educational institution for any such week commencing during

the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms.

(2) With respect to any week of unemployment beginning after April 3, 1983, benefits shall not be paid on the basis of service in any other capacity for an educational institution, to any individual for any such week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that if compensation is denied to any individual under this subdivision (2) for weeks of unemployment beginning on or after April 3, 1983 and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subdivision (2); provided further that such individual has given notice that the opportunity to return was not offered or was withdrawn to the director in such manner and within such time as the director by regulation shall prescribe.

(3) With respect to any week of unemployment beginning on or after April 1, 1984, benefits shall not be paid based on services in any capacity described in subdivisions (1) and (2) to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

(4) With respect to any week of unemployment beginning on or after April 1, 1984, benefits shall not be paid on the basis of services described in subdivisions (1) and (2) of this section in any such capacities as specified in subdivisions (1), (2) and (3) to any individual who performed such services in an educational institution while in the employ of an educational service agency. For the purposes of this subdivision the term "educational service agency" shall mean a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services

to one or more educational institutions.

(5) With respect to weeks of unemployment beginning on or after April 1, 1984, benefits shall not be paid with respect to services to which sections 25-4-8(a)(7), 25-4-8(a)(8), 25-4-10(a)(2) and 25-4-10(a)(3) apply, if such services are provided to or on behalf of an educational institution, under the same circumstances and subject to the same terms and conditions as described in subdivisions (1), (2), (3) and (4) of this subsection.

(6) With respect to weeks of unemployment beginning before April 1, 1984 benefits shall be paid on the basis of this section prior to that date.

(7) For the purposes of this subsection, the term "reasonable assurance" means a written, verbal or implied agreement that the employee will perform services during the ensuing academic year or term and the term "contract" is intended to include tenure status."

**Section 6.** Section 25-4-75, Code of Alabama 1975, as last amended, is hereby amended to read:

"§ 25-4-75. Extension of benefit period.—

(a) **APPLICABILITY OF SECTION.**—Notwithstanding any other provisions of this chapter, the duration of benefits as provided in section 25-4-74 shall be extended as provided in this section.

(b) **DEFINITIONS.**—As used in this section, unless the context clearly requires otherwise, the following terms shall mean:

(1) **EXTENDED BENEFIT PERIOD.** A period which:

a. Begins with the third week after a week for which there is a state "on" indicator; and

b. Ends with either of the following weeks, whichever occurs later:

1. The third week after the first week for which there is a state "off" indicator; or

2. The thirteenth consecutive week of such period; provided, that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state.

(2) **STATE "ON" INDICATOR.** There is a "state 'on' indicator" for this state for a week if the director determines, in accordance with the regulations of the U. S. secretary of labor, that for the period consisting of such week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally ad-

justed) under this section:

a. For any weeks beginning prior to September 26, 1982, equaled or exceeded that required by this section prior to such date.

b. For any week beginning on September 26, 1982, or thereafter:

1. Equaled or exceeded 120 percent of the average of such rates for the corresponding 13-week period ending in each of the preceding two calendar years; and

2. Equaled or exceeded five percent; provided, that with respect to benefits for weeks of unemployment beginning after September 25, 1982, the determination of whether there has been a "State 'on' indicator" beginning any extended benefit period shall be made under this paragraph b as if this paragraph b did not contain subparagraph 1 thereof and the "five" contained in subparagraph 2 thereof were "six".

(3) STATE "OFF" INDICATOR. There is a "state 'off' indicator" for this state for a week if the director determines, in accordance with the regulations of the U. S. secretary of labor, that for the period consisting of such week and the immediately preceding 12 weeks;

a. for any weeks beginning prior to September 26, 1982, the rate of insured unemployment under this section was less than that required by this section prior to such date.

b. for any weeks beginning on September 26, 1982, or thereafter, the requirements of either subparagraph 1 or 2 of paragraph (2) b of this subsection (b) where not satisfied, except that the 6 percent provision does not apply in determining an "off" indicator.

(4) RATE OF INSURED UNEMPLOYMENT. For the purpose of subdivisions (2) and (3) of this subsection (b), such term means the percentage derived by dividing:

a. The average weekly number of individuals filing claims for regular state benefits in this state for weeks of unemployment with respect to the most recent 13-consecutive-week period, as determined by the director on the basis of his reports to the U. S. secretary of labor, by

b. The average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters ending before the end of such 13-week period.

(5) REGULAR BENEFITS. Benefits payable to an individual under this chapter or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen pur-

suant to 5 U.S.C. 85), other than extended benefits.

(6) **EXTENDED BENEFITS.** Benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. 85) payable to an individual under the provisions of this subsection for weeks of unemployment in his eligibility period.

(7) **ELIGIBILITY PERIOD OF AN INDIVIDUAL.** The period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such extended benefit period.

(8) **EXHAUSTEE.** An individual who, with respect to any week of unemployment in his eligibility period:

a. Has received, prior to such week, all of the regular benefits that are available to him under this chapter or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. 85) in his current benefit year that includes such week; provided, that for the purposes of this subdivision (8), an individual shall be deemed to have received all of the regular benefits that are available to him although as a result of a pending appeal with respect to wages and/or employment that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or

b. His benefit year having expired prior to such week, has no, or insufficient, wages on the basis of which he could establish a new benefit year that would include such week; and

c. 1. Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the U. S. secretary of labor; and

2. Has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada; but, if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law, he is considered an exhaustee.

(9) **STATE LAW.** The unemployment insurance law of any state, approved by the U. S. secretary of labor under section 3304 of the Internal Revenue Code of 1954.

(c) **EFFECT OF STATE LAW PROVISIONS RELATING TO REGULAR BENEFITS ON CLAIMS FOR, AND THE PAYMENT OF, EXTENDED BENEFITS.**—Except when the result

would be inconsistent with the other provisions of this section, as provided in the regulations of the director, the provisions of this chapter which apply to claims for, or the payment of, regular benefits shall apply to claims for, and the payment of, extended benefits.

(d) **ELIGIBILITY REQUIREMENTS FOR EXTENDED BENEFITS.**—An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period only if the director finds that with respect to such week:

(1) He is an “exhaustee,” as defined in subdivision (b)(8) of this section.

(2) He has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits.

(e) **WEEKLY EXTENDED BENEFIT AMOUNT.**—The weekly extended benefit amount payable to an individual for a week of total unemployment in his eligibility period shall be an amount equal to the weekly benefit amount payable to him during his applicable benefit year.

(f) **TOTAL EXTENDED BENEFIT AMOUNT.**—The total extended benefit amount payable to any eligible individual with respect to his applicable benefit year shall be 50 percent, rounded to the nearest multiple of \$1.00, of the total amount of regular benefits which are payable to him under this chapter in his applicable benefit year.

(g) **BEGINNING AND TERMINATION OF EXTENDED BENEFIT PERIOD.**—

(1) Whenever an extended benefit period is to become effective in this state, as a result of a state “on” indicator, or an extended benefit period is to be terminated in this state as a result of a state “off” indicator, the director shall make an appropriate public announcement.

(2) Computations required by the provisions of subdivision (b) (4) of this section shall be made by the director, in accordance with regulations prescribed by the U. S. secretary of labor.

(h) **CESSATION OF EXTENDED BENEFITS WHEN PAID UNDER AN INTERSTATE CLAIM IN A STATE WHERE EXTENDED BENEFIT PERIOD IS NOT IN EFFECT.**—

(1) Except as provided in subdivision (2) of this subsection (h), an individual shall not be eligible for extended benefits for any week if:

a. extended benefits are payable for such week pursuant to an interstate claim filed in any state under the interstate benefit payment plan; and

b. no extended benefit period is in effect for such week in such state.

(2) The provisions of subdivision (1) of this subsection (h) shall not apply with respect to the first two weeks for which extended benefits are payable (determined without regard to this subsection) pursuant to an interstate claim filed under the interstate benefit payment plan to the individual from his extended benefit amount established for the benefit year.

(i) RESTRICTIONS ON ENTITLEMENT DURING ELIGIBILITY PERIOD.—

(1) Notwithstanding the other provisions of this section, payment for any extended benefits under this section shall not be made to any individual for any week of unemployment in his eligibility period;

a. during which he fails to accept any offer of suitable work as defined in subdivision (3) of this subsection (i) or fails to apply for any such suitable work to which he was referred by the director; or

b. during which he fails to actively seek work, except as provided in subdivision (5) of section 25-4-77, but only with regard to the exception for the appearance for jury duty as provided therein.

(2) If any individual is ineligible for extended benefits for any week by reason of a failure described in subdivision (1) of this subsection (i), the individual shall be ineligible to receive extended benefits for any week during a period which;

a. begins with the week following the week in which such failure occurs and

b. does not end until such individual has been employed in at least 4 weeks which begin after such failure and the total of the remuneration earned by the individual for being so employed is not less than 4 weeks his extended weekly benefit amount for his benefit year.

(3) For the purposes of this subsection (i), the term "suitable work" means, with respect to any individual, any work which is within such individual's capabilities; except that, if the individual furnishes evidence satisfactory to the director that such individual's prospects for obtaining work in his customary occupation within a reasonably short period are good, the determination of whether any work is suitable work shall be made in accordance with other provisions of this chapter.



(4) Extended benefits shall not be denied under paragraph a of subdivision (1) of this subsection (i) to any individual for any week by reason of a failure to accept an offer of, or apply for, suitable work:

a. if the gross average weekly remuneration payable to such individual for the position does not exceed the sum of

1. the individual's extended weekly benefit amount for the benefit year plus

2. the amount if any of supplemental unemployment benefits (as defined in 26 USC 501(c)(17)(D)) payable to such individual for such week;

b. if the position was not offered to such individual in writing or was not listed with the state employment service;

c. if such failure would not result in a denial of benefits under the other provisions of this chapter to the extent that such provisions are not inconsistent with subdivisions (4) and (5) of this subdivision (i); or

d. if the position pays wages less than the higher of the minimum wages provided under section 6 (a) (1) of the Fair Labor Standards Act of 1938, as amended, without regard to any exemption or the applicable state or local minimum wage, if any.

5. For purposes of this subsection (i), an individual shall be treated as actively engaged in seeking work during any week if the individual has engaged in a systematic and sustained effort to obtain work during such week, and provides tangible evidence to the director that he has engaged in such effort during such week.

(j) REFERRAL OF EXTENDED CLAIMANT TO JOB.—Extended benefit claimants shall be referred to any available suitable work to which the definition in subdivision (4) of subsection (i) does not apply.

(k) EMPLOYMENT REQUIRED AFTER INVOLUNTARY SEPARATION.—No provision of section 25-4-78 which terminates a disqualification for regular or extended benefits because he or she has voluntarily left employment, was suspended or discharged for misconduct (in any of the degrees defined in section 25-4-78) or failed to accept an offer of or apply for suitable work shall apply for purposes of determining eligibility for extended benefits unless the disqualification imposed has been terminated based upon employment in four weeks and remuneration of an amount which equals or exceeds four times the individual's weekly benefit amount subsequent to the effective date of such disqualification.

(1) EFFECTIVE DATE OF ADDED PROVISIONS.—The

provisions of subsections (h), (i), (j), (k) and (l) of this section shall apply to weeks of unemployment which begin after March 31, 1981.

(m) **EFFECT OF RECEIPT OF TRADE READJUSTMENT ALLOWANCES.**—Notwithstanding any other provisions of this section, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that such individual would, but for this subsection (m), be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced (but not below zero) by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits."

**Section 7.** Section 25-4-77, Code of Alabama 1975, as last amended, is hereby amended to read:

"§ 25-4-77. Benefit eligibility conditions.

(a) An unemployed individual shall be eligible to receive benefits with respect to any week which begins on or after July 3, 1983, only if the director finds that:

(1) He has made a claim for benefits with respect to such week in accordance with such regulations as the director may prescribe.

(2) He has registered for work at, and thereafter continued to report at, a state employment office in accordance with such regulations as the director may prescribe; except, that the director may by regulation waive or alter either or both of the requirements of this subdivision (2) as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which he finds that compliance with such requirements would be oppressive, or would be inconsistent with purposes of this chapter.

(3) He is physically and mentally able to perform work of a character which he is qualified to perform by past experience or training, and he is available for such work either at a locality at which he earned wages for insured work during his base period or at a locality where it may reasonably be expected that such work may be available. Notwithstanding any of the provisions of this subdivision (3), no otherwise eligible individual shall be denied benefits for any week because he or she is:

a. Enrolled in a course of training with the approval of the director. Such approval shall be conditioned upon the following:

1. The individual's skills are obsolete or such that there are minimal opportunities for employment;

2. Training is for an occupation for which there is a substan-

tial and recurring demand;

3. Training is not a course of education for credit toward a degree;

4. The individual possesses aptitudes or skills which can be supplemented by retraining within a reasonable time;

5. The individual produces satisfactory evidence of continued attendance and satisfactory progress; or

b. In training approved by the director under section 236 (a)(1) of the Trade Act of 1974, nor shall such individual be denied benefits (any other provision of this chapter requiring denial notwithstanding) by reason of leaving work to enter such training; provided,

1. The work left is not suitable employment as defined in paragraph c of this subdivision (3), or

2. Because of the application to any such week in training of provisions in this chapter (or any applicable federal unemployment compensation law) relating to availability for work, active search for work or refusal to accept work.

c. For purposes of paragraph b of this subdivision (3), and only therefor, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than 80 percent of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

(4) He has been totally or partially unemployed in such week.

(5) He has made a reasonable and active effort to secure work which he is qualified to perform by past experience and training, unless such failure is because the individual is before any court of the United States or any state pursuant to a lawfully issued summons to appear for jury duty. For the purposes of this subdivision (5), the entitlement to regular or extended benefits of any individual who is determined not to be actively engaged in seeking work during any week for the aforesaid reason, shall be determined pursuant to the provisions of subdivision (3) of this subsection (a) without regard to the disqualification provisions otherwise applicable under paragraph b of subdivision 25-4-75 (i)(1) and subdivision (2) of subsection 25-4-75 (i). Further, for the purposes of this subdivision (5), the term "jury duty" means the performance of service as a juror, during all periods of time an individual is engaged in such service, in any court of a state or the United States pursuant to the law of the state or the United States and the rules of the court in which the

individual is engaged in the performance of such service.

(6) He has during his base period been paid more than \$774.00 wages for insured work and in addition been paid wages for insured work equal to or exceeding one and one-half times the total of the wages for insured work paid to him in that quarter of such base period in which such total wages were the highest; provided, however, that no otherwise eligible individual who shall have received benefits in a preceding benefit year shall be eligible to receive benefits in a succeeding benefit year unless and until such otherwise eligible individual, subsequent to the beginning date of the preceding benefit year, shall have worked in insured employment for which work he earned wages equal to at least eight times the weekly benefit amount established for such individual in the preceding benefit year.

(b) With respect to any week which begins prior to July 3, 1983, an unemployed individual shall be eligible to receive benefits as provided in this section prior to that date.

(c) The provisions of subdivision (5) of subsection (a) shall be applied only to any week which begins on or after the effective date of this act."

**Section 8.** All laws and parts of laws in conflict herewith are hereby repealed.

**Section 9.** Any provisions of this Act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are severable.

**Section 10.** This act to take effect immediately upon its passage and approval by the Governor or its otherwise becoming law.

Approved March 22, 1984

Time: 4:40 P.M.

Act No. 84-74

H. 330—Rep. Blake

### AN ACT

To provide for the salary of the probate judge of St. Clair County and to provide for retroactive effect.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Commencing January 1, 1984 the probate judge of St. Clair County shall be paid the minimum salary as is now or may

hereafter be provided by section 12-13-20 of the Code of Alabama 1975.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 22, 1984

Time: 4:40 P.M.

Act No. 84-75

H. 331—Rep. Blake

### AN ACT

Relating to St. Clair County; to provide for additional expense allowances for certain county officials.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In St. Clair County the following county officials shall receive an additional expense allowance in the amount specified as follows, viz:

Chairman of the County Commission . . . . . \$300.00 per month

Members of the County Commission . . . . . \$300.00 per month

County Coroner . . . . . \$300.00 per month

Assistant County Coroner . . . . . \$150.00 per month

The expense allowance provided for by this Act shall be in addition to any and all other salary, compensation and expense allowances provided for by law and shall be paid out of the county general fund.

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 22, 1984

Time: 4:40 P.M.

Act No. 84-76

H.J.R. 77—Reps. Horn, Biddle

### HOUSE JOINT RESOLUTION

COMMENDING THE ALABAMA ASSOCIATION OF THE NATIONAL HONOR SOCIETY.

WHEREAS, the Alabama Association of the National Honor Society is composed of local chapters, statewide, that have been chartered and are endorsed by the national organization; and

WHEREAS, on March 19-26, 1984, AANHNS will hold its annual convention at Gardendale High School, Gardendale, Alabama, with National Honor Society members from all schools in Alabama invited to attend and participate; and

WHEREAS, the Gardendale High school Chapter, whose sponsor and convention hostess is Mrs. Dorothy Taylor, will co-host, the event with Birmingham's Glenn High School Honor Society Chapter which is sponsored by Mrs. Elaine Hill, co-hostess with Mrs. Taylor; and

WHEREAS, participating in the program will be Mr. Al Bigger, who currently serves as executive secretary of the Alabama Association of the National Honor Society, an organization to be most highly commended for its recognition of high school academic achievers; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby express utmost commendation of the Alabama Association of the National Honor Society and direct that a copy of this resolution be prepared for presentation during their March 19-26 meeting at Gardendale High School, Gardendale, Alabama.

Approved March 22, 1984

Time: 4:40 P.M.

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Act No. 84-77

H.J.R. 91—Reps. Drake, Clark (J)

### HOUSE JOINT RESOLUTION

CREATING A JOINT LEGISLATIVE-JUDICIAL COMMITTEE TO STUDY, DEVELOP PLANS, AND MAKE RECOMMENDATIONS FOR A NEW JUDICIAL BUILDING FOR THE STATE OF ALABAMA.

WHEREAS, there appears to be a critical need for an adequate building to house the appellate courts of the Judicial Department of the State of Alabama; and

WHEREAS, this need has been recognized for almost twenty (20) years by various organizations and groups, including members of the Legislature, the National Center for State Courts, the Permanent Study Commission on Alabama's Judicial System, and the Ala-

bama State Bar:

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, that there is hereby created a joint legislative-judicial committee to study the need for and to develop plans and make recommendations for the location and the construction of a new judicial building to be located at the seat of state government in the City of Montgomery, Alabama, in order to maximize the efficiency and productivity of both the judicial and administrative functions of the appellate courts of the state.

The committee hereby established shall be composed of twelve (12) members as follows: the Lieutenant Governor; the Speaker of the House of Representatives; and the Chief Justice of the Supreme Court, by virtue of their respective offices; and three (3) members of the State Senate to be appointed by the Lieutenant Governor, as the presiding officer thereof; three (3) members of the House of Representatives to be appointed by the Speaker; and three (3) members of the judiciary to be appointed by the Chief Justice. A chairman, a vice chairman, and secretary shall be elected from the members of the committee at the organizational meeting of the committee which organizational meeting shall be called within ten (10) days after all of the members of the committee are appointed and shall be presided over by the Chief Justice.

Legislative members, including the Lieutenant Governor, shall receive their regular legislative compensation, per diem, and travel expenses for attendance at committee meetings when the Legislature is not in session, to be paid from funds appropriated to the Legislature. Judicial members of the committee shall receive no additional compensation for attending meetings of the committee, but shall be allowed per diem and travel expenses as authorized by law.

The committee or subcommittees thereof shall be authorized to visit and study the judicial building facilities of other states as may be authorized by the chairman of the committee, and such members shall be reimbursed their actual and reasonable travel expenses as authorized by law for out-of-state travel.

The Building Commission of the State, its officers, employees, and agents, including its architectural and technical employees, are hereby authorized and directed to cooperate with and assist the committee in its study, recommendations, and development of plans, including recommendations of a suitable location for such judicial building.

The committee shall meet from time to time at the call of its chairman and shall make and submit a formal written report or re-

ports to the Legislature as to its findings and recommendations, such reports to be submitted at the next regular session of the Legislature, unless otherwise extended by joint resolution of the Legislature.

Approved March 22, 1984

Time: 4:40 P.M.

Act No. 84-78

S.J.R. 52—Senator Hand

### SENATE JOINT RESOLUTION

#### MOURNING THE DEATH OF MR. JAMES PARRISH COLEMAN OF FOLEY, ALABAMA.

WHEREAS, it is with deep sadness and regret that the Alabama Legislature notes the death of Mr. James Parrish Coleman of Foley, Alabama, on December 21, 1983, at the age of 63 years; and

WHEREAS, born September 21, 1920, in Tom Nolen, Mississippi, Mr. Coleman was educated in the public schools of his native state; and

WHEREAS, Mr. Coleman was a highly decorated United States Air Force veteran with combat service during World War II, and was a veteran as well of the Korean Conflict having served with the 31st Dixie Division as a member of the National Guard; and

WHEREAS, in addition to terms of employment in Mobile, Alabama, and in Memphis, Tennessee, Mr. Coleman operated his own marine hardware business in Fairhope which he later moved to Foley; at the time of his death, however, he was serving as president of Coleman Marine and Hardware, Ltd., a firm he established in 1957; and

WHEREAS, Mr. James Parrish Coleman was indeed a prominent area businessman, and one who also was deeply involved in numerous civic and community affairs; he was a charter member of the Foley Rotary Club, president of the Retail Merchants Association, vice president of the South Baldwin Chamber of Commerce, member of the Power Squadron, Fairhope Yacht Club, VFW and the American Legion; and

WHEREAS, he further was a member of the Foley United Methodist Church and was actively involved as a member of the Council on Ministries, chairman of both the Official Board and the Board of Trustees, and had served as a lay delegate to the Annual Conference; now therefore,



BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Mr. James Parrish Coleman of Foley, Alabama, and extend our very deepest sympathy to his family whose sorrow we truly share.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Mr. Coleman's beloved wife, Mrs. Jane Elizabeth Smith Coleman; to their son and daughter, James P. Coleman, Jr., and Mrs. Jane McDuffie, and to other family members whose grief also is ours.

Approved March 26, 1984

Time: 10:50 A.M.

Act No. 84-79

S.J.R. 54—Senator Bennett

### SENATE JOINT RESOLUTION

#### MOURNING THE DEATH OF BENNETT POWELL SINGLETON.

WHEREAS, Bennett P. Singleton, who served as Alabama's first chief examiner of public accounts, died Friday, February 11, 1984 at age 81; and

WHEREAS, Mr. Singleton served in that capacity from 1940 to 1945 having earlier been state comptroller in 1939; and

WHEREAS, A native of Union Springs, he further served as director of local finance for the Alabama Rural Electrification Administration; and

WHEREAS, Mr. Singleton enlisted in the U.S. Army at age 14 making him the youngest U.S. veteran of World War I when mustered out at age 16. Wounded, he received the Purple Heart for action in the Battle of Muse Argon in France; and

WHEREAS, Mr. Singleton joined the U.S. Veterans Administration early in 1946, initially as fiscal officer for the VA in Montgomery and later in Memphis and Nashville. He retired in 1966 from the VA's Central Office, Department of Medicine and Surgery as supervisory field auditor for the entire VA Hospital System;

NOW THEREFORE BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Legislature does hereby express its deepest sympathy to Mrs. Mildred Gillis Singleton of Troy in the loss of her husband of 52 years; and

BE IT FURTHER RESOLVED, That copies of this resolution be sent his widow and their two sons, George Singleton and Bennett Gillis Singleton, both of Birmingham.

Approved March 26, 1984

Time: 10:50 A.M.

Act No. 84-80

S.J.R. 55—Senator deGraffenried

### SENATE JOINT RESOLUTION

#### CREATING THE TUSCALOOSA COUNTY ELECTED AND APPOINTED OFFICIALS SALARY COMMISSION.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there be and hereby is established in Tuscaloosa County, The Tuscaloosa County Elected and Appointed Officials Salary Commission, hereinafter referred to as "The Commission."

The Commission shall be composed of seven (7) members: two members from government; four members from business including: one lawyer, one proprietor, one salary administrator, one personnel manager; and one educator. The Commission members shall be appointed in the following manner: three by the Tuscaloosa City governing body, three by the Tuscaloosa County governing body, and one by the Tuscaloosa County Legislative Delegation.

The chairman shall be selected by the membership and he shall preside over all meetings. The Commission shall make its own rules for the conduct of its business. The initial meeting shall be held within thirty days after the last appointment is made and thereafter at the call of the chairman and within the rules of The Commission. Members of The Commission shall serve without compensation and their terms shall expire on January 1, 1986, at which time The Commission members shall stand discharged from any further duties.

The general purpose of The Commission is to provide information and recommendations regarding salaries and compensation of all elected and appointed city and county officials within Tuscaloosa County. The specific objectives of The Commission shall be prescribed by the Tuscaloosa County Legislative Delegation.

Approved March 26, 1984

Time: 10:50 A.M.

Act No. 84-81

S.J.R. 59—Senators deGraffenried and Bishop

## SENATE JOINT RESOLUTION

## COMMENDING CENTRAL HIGH SCHOOL'S GIRLS BASKETBALL TEAM, STATE 4-A CHAMPIONS.

WHEREAS, the Legislature of Alabama, in consensus of commendation, extends heartiest congratulations to Central High School's Girls Basketball Team, State 4-A Champions; and

WHEREAS, under Head Coach Jim Holland and Assistant Coaches Garland Pounds and Wardell Davis, Central High's Lady Falcons posted a phenomenal 21-2 regular season record, and 26-2 overall including regional and state competition; and

WHEREAS, the Lady Falcons, who claimed the Region 8 crown by virtue of victories over Hueytown and Jess Lanier, advanced to the State Tournament for the fourth time, finishing among the top three teams each of these years, including the 1981-82 and 1983-84 State Championships; and

WHEREAS, this year, the Lady Falcons won the crown by defeating McGill-Toolen in the finals on February 18, 1984, following big wins over Phillips and Austin High Schools in the quarter finals and semi-finals, respectively; the Lady Falcons' three-year record stands at 71-6; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend the Central High School Lady Falcons of Tuscaloosa, Alabama, State 4-A Basketball Champions.

BE IT FURTHER RESOLVED, That copies of this resolution be forwarded to the coaches and team with copies also provided for appropriate school display.

Approved March 26, 1984

Time: 10:50 A.M.

Act No. 84-82

S.J.R. 61—Senator Drinkard

## SENATE JOINT RESOLUTION

## MOURNING THE DEATH OF MR. MICHAEL HENRY McCARTNEY, PROMINENT GADSDEN, ALABAMA, BUSINESSMAN AND CIVIC LEADER.

WHEREAS, the Alabama Legislature grievously mourns the death of Mr. Michael Henry McCartney of Gadsden, Alabama, on January 22, 1984; and

WHEREAS, Mr. McCartney, who was born and reared in Etowah County, was the son of the late Michael Bailey and Alma Childress McCartney; he was the founder of McCartney Construction Company and was a member of the First United Methodist Church, Men's Bible Class, and served as a Trustee and Chairman of the Board of Stewards; and

WHEREAS, Mr. McCartney further was one of his city's most concerned and committed citizens who was deeply involved in numerous civic, charitable and professional affairs within the community; and

WHEREAS, he was a member of the Gadsden Industrial Development Board, immediate past vice-chairman of the State Contractors Licensing Board, regional director of the National Asphalt Pavement Association, past president and honorary life member of Alabama Asphalt Pavement Association, and director emeritus of Alabama City Bank; and

WHEREAS, Mr. McCartney also was a past member of Auburn Engineering Council, past member of the National Board of Auburn Alumni Association and received the Ralph (Shug) Jordan Outstanding Service award of 1982 from the Etowah County Auburn Club; he additionally was a member of the Gadsden Quarterback Club, Gadsden Rotary Club and was a Mason and member of the Zamora Shrine; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the death of Mr. Michael Henry McCartney of Gadsden, Alabama, and extend our deepest sympathy to his family, for whom a copy of this resolution shall be provided.

Approved March 26, 1984

Time: 10:50 A.M.

Act No. 84-83

S.J.R. 62—Senators Bedsole and Corbett

### SENATE JOINT RESOLUTION

DIRECTING THE DEPARTMENT OF EDUCATION AND THE STATE BOARD OF HEALTH TO IMPLEMENT THE PROVISIONS OF SECTION 16-29-1, CODE OF ALABAMA 1975.

WHEREAS, the Legislature recognizes that the condition known as scoliosis, a lateral curvature of the spine commonly appearing in adolescents, can develop into a permanent crippling disability if left untreated; and

WHEREAS, early diagnosis and referral, however, can often result in the successful treatment of this condition, thereby greatly reducing the need for major surgery; and

WHEREAS, the highest risk group for the development of scoliosis encompasses the ages 11 through 14 or our state's junior high school aged students; and

WHEREAS, despite the fact that Section 16-29-1, Code of Alabama 1975, specifically provides that the Department of Education and the State Board of Health shall, in conjunction, arrange for the examination of all public school students in Alabama for a number of physical defects and diseases including "any deformity or dislocation of the hip joints or spinal disease," no screenings for scoliosis have been or are currently being conducted as required by said law; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby direct the Department of Education and the State Board of Health to immediately implement procedures for examination of all public school students, ages 11 through 14, for the purpose of detecting the development of scoliosis and for referring those children with positive screenings to a trained medical professional.

BE IT FURTHER RESOLVED, That said screenings shall begin with the 1984-1985 school year and shall be phased in over a period of five years after the effective date of this resolution.

RESOLVED FURTHER, That copies of this resolution be forwarded to the State Department of Education and to the State Board of Health that immediate steps may be taken to comply with this directive of the Alabama Legislature and the provisions of Section 16-29-1, Code of Alabama 1975.

Approved March 26, 1984

Time: 10:50 A.M.

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Act No. 84-84

S.J.R. 64—Senator Little

# SENATE JOINT RESOLUTION

## COMMENDING THE PARTICIPANTS IN THE ALABAMA

## STATE GYMNASTICS CHAMPIONSHIPS.

WHEREAS, the Alabama State Gymnastics Championships will be held in Prattville, Alabama, March 31-April 1, 1984, featuring some 70 young lady gymnasts from across the state seeking to advance to regional competition; and

WHEREAS, the Alabama Legislature notes with commendation that those competing were required to qualify for the state meet by achieving a standard score in sectional qualifying meets held during the season; and

WHEREAS, in order to advance to regional competition, Class I (advanced gymnasts) must score a minimum of 68.8 in eight events with Class II (intermediates) competitors attaining a minimum 65.0 score; and

WHEREAS, in addition to individuals, team competition also will be held in both Class I and Class II; competing for the titles will be teams from Prattville, Tuscaloosa, Birmingham, Huntsville, Dothan, Selma, Florence, Mobile, Enterprise and Montgomery; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most highly commend the talented and accomplished young lady gymnasts who, by fulfilling previous stringent requirements, have qualified to participate in the Alabama State Gymnastics Championships.

Approved March 26, 1984

Time: 10:50 A.M.

Act No. 84-85

S.J.R. 76—Senators deGraffenried and Bishop

## SENATE JOINT RESOLUTION

COMMENDING THE TUSCALOOSA ACADEMY KNIGHTS, STATE APSA BASKETBALL CHAMPIONS.

WHEREAS, the Alabama Legislature notes with highest commendation Tuscaloosa Academy's State Basketball Championship of the Alabama Private School Association; and

WHEREAS, under the talented direction of Head Coach Scott Brenizer and Assistant Coaches Don McNabb and Don McDaniel, the Tuscaloosa Academy Knights posted a phenomenal overall 30-1 season record; and

WHEREAS, in the three state playoff games, Knights Scott Pierce, Darryl Rogers, Tom Fitts, John Cohen, Luke Standeffer, Blair Ramey, Mike Perkins, Hunter Plott, David Morrow, Mark Kessler, Grant McAllister and Chris Hellums tilted head-on with Lee-Scott, Glenwood Academy and Sparta Academy, winning respectively by scores of 88-42, 45-43 and 86-61; and

WHEREAS, both coaches and team are indeed to be congratulated on such a sensational season, culminating in the coveted State APSA Basketball Title; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein most highly congratulate and commend the Tuscaloosa Academy Knights, and direct that a copy of this resolution be forwarded to Coach Brenizer, on behalf of his staff and his Champion Knights, with a copy also provided for appropriate school display.

Approved March 26, 1984

Time: 10:50 A.M.

Act No. 84-86

S.J.R. 77—Senators Little, Aldridge, Amari, Bailey, Barron, Bedford, Bedsole, Bennett, Bishop, Cabaniss, Cooley, Corbett, Covington, deGraffenried, Denton, Dial, Dixon, Drinkard, Ellis, Figures, Foshee, Goodwin, Hand, Hilliard, Holmes, Langford, Menton, Mitchem, Parsons, Pearson, Sanders, Smith (B), Smith (J), Strong and Teague

### SENATE JOINT RESOLUTION

COMMENDING DR. JOHN W. KUYKENDALL OF AUBURN UNIVERSITY.

WHEREAS, the Alabama Legislature, in consensus of highest commendation, notes the selection of Dr. John W. Kuykendall to assume the prestigious office of president of Davidson College in Davidson, North Carolina; and

WHEREAS, Davidson's gain, however, is Auburn University's loss as Dr. Kuykendall will be vacating his university position as chairman of the Department of Religion since 1981; and

WHEREAS, Dr. Kuykendall will be returning to his alma mater where he was awarded the B.A. degree in English; he also holds the B.D. degree from Union Theological Seminary, the S.T.M. degree from Yale Divinity School and both the M.A. and Ph.D. degrees from Princeton University; and

WHEREAS, prior to joining the Auburn faculty in 1973, Dr. Kuykendall had successively served as Assistant Dean of Students at Davidson, as Auburn University's Presbyterian Campus Pastor and as interim Presbyterian Campus Pastor at Princeton; and

WHEREAS, Dr. Kuykendall has been the recipient of a number of honors, scholarships and awards including Omicron Delta Kappa, Phi Beta Kappa, the Algernon Sydney Sullivan Award and Phi Kappa Phi, among others; his professional affiliations also are quite lengthy, and he has contributed greatly to the community through involvement and service in many areas of civic concern; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Dr. John W. Kuykendall for outstanding professional achievement and further express sincere gratitude for his contributions to both Auburn University and the Auburn Community.

RESOLVED FURTHER, That a copy of this resolution be forwarded to Dr. Kuykendall that he and his wife, the former Nancy Adams Moore, and their two young sons, Timothy Moore and James Frazer Kuykendall, may be aware of our sincere sentiment of regard and best wishes for every future success in life.

Approved March 26, 1984

Time: 10:50 A.M.

Act No. 84-87

S.J.R. 78—Senator Teague

#### SENATE JOINT RESOLUTION

RECOGNIZING THE OUTSTANDING SERVICE OF MR. RALPH BISHOP.

WHEREAS, Ralph Bishop, while serving in combat as a U.S. Marine paid the highest price in the defense of his country when he was blinded by a shot fired from a Japanese gun in Okinawa on April 13, 1945. Facing overwhelming odds he returned to civilian life and began to prove his leadership among peers and others, serving as a beacon for the sighted and blind alike, and



WHEREAS, he has for more than 35 years served the Alabama Institute for Deaf and Blind and the Division of Rehabilitation and Crippled Children Service, and

WHEREAS, during this period he has rendered untiring and devoted service to children and adults in a multitude of settings, and

WHEREAS, at all times he has fulfilled his obligations with sound results and always his position with dignity, and

WHEREAS, it is felt that Mr. Bishop has demonstrated his ability as an able administrator, and

WHEREAS, on many occasions he has been the guiding force that has enabled other handicapped individuals to rise above their disabilities, and

WHEREAS, Mr. Bishop has served with commitment and dedication to excellence and has brought respect and honor to his profession; now therefore,

BE IT RESOLVED THAT THE STATE OF ALABAMA LEGISLATURE, Does recognize this outstanding service which has been given, and on the occasion of Mr. Bishop's official retirement as Area Supervisor, Blind and Deaf Services, Division of Rehabilitation and Crippled Children Service on February 29, 1984 wishes to convey to him deep appreciation and admiration and warmly applauds him for the conduct of his office. He is commended by this resolution for his loyal service and every success is wished for him by this body.

BE IT FURTHER RESOLVED, That a copy of this resolution be furnished to Ralph Bishop and the records of this assembled in Montgomery, Alabama.

Approved March 26, 1984

Time: 10:50 A.M.

Act No. 84-88

S.J.R. 79—Senator Teague and Bedsole

### SENATE JOINT RESOLUTION

RECOGNIZING THE OUTSTANDING SERVICE OF MR. JAMES W. (BILL) COWEN.

WHEREAS, James W. (Bill) Cowen has served for more than 36 years in the Vocational Rehabilitation Division of the State Department of Education, and

WHEREAS, he has advanced from the position of rehabilitation counselor in 1947 to the high office of Director of the Division of Rehabilitation and Crippled Children Service in 1978, and

WHEREAS, at all times during his years of service he has demonstrated his ability as a leader among his peers, always filling his position with dignity and giving his full attention to his duties, and

WHEREAS, he has been active in all areas of rehabilitation, has been recognized by a multitude of agencies with which he has had interaction, and

WHEREAS, he has been the recipient of various awards both for his organizational and leadership roles for his agency and on an individual basis, including being the first recipient in 1982 of the ARA Owen F. Wise Award for outstanding leadership in the field of rehabilitation and the Lotus Award in 1983 for that individual who has contributed the most for the handicapped, and

WHEREAS, he has at the same time been actively engaged in numerous community affairs which includes his church and civic affairs and in professional organizations over the State of Alabama and indeed, across the country, and

WHEREAS, he has at all times exemplified in his life the early training he received in the public schools of Opp, Alabama and in higher education at Auburn University, and

WHEREAS, he has along with his wife, the former Betty Gibson reared an outstanding family of one son and two daughters, which now includes seven grandchildren; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, That we recognize this outstanding person and applaud his many contributions of many years to Alabamians, both the able and disabled.

BE IT FURTHER RESOLVED, That this body does commend him for this loyal service and wish him every success upon his retirement on March 31, 1984 as he continues to serve in other ways his community, his state and those friends who surround him.

BE IT FURTHER RESOLVED, That a copy of this resolution be furnished to Mr. Cowen and spread upon the records of this assembled in Montgomery, Alabama.

Approved March 26, 1984

Time: 10:50 A.M.

Act No. 84-89

S.J.R. 82—Senator Goodwin

## SENATE JOINT RESOLUTION

NAMING THE AUDITORIUM-OFFICE BUILDING AT THE CHILTON AREA HORTICULTURE SUB-STATION, THE "C. C. 'CHICK' CARLTON BUILDING".

WHEREAS, Mr. C.C. "Chick" Carlton, who recently announced his retirement as superintendent of the Chilton Area Horticulture Sub-Station, has served continuously and with distinction in that position since 1948, and previously as assistant County Agent in Chilton County; and

WHEREAS, he has been a leader in developing improved varieties of fruits and vegetables, and has been instrumental in the development of the sweet potato industry in Alabama; and

WHEREAS, he further has been active in church and civic activities as well as in the Chilton County cattle industry; and

WHEREAS, it is the desire of both the Chilton County Commission and this body that Mr. Carlton be appropriately honored for his outstanding service to Chilton County, to the State of Alabama and to the field of horticulture over the past many years; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in sincere appreciation and praise for extraordinary service, we hereby name and designate the auditorium-office building located at the Chilton Area Horticulture Sub-Station, the "C. C. 'Chick' Carlton Building."

BE IT FURTHER RESOLVED, That the proper authorities are directed to erect and maintain appropriate signs and markers so designating said building, and that further a copy of this resolution shall be sent to Mr. Carlton as a memento of this honorary designation of the Alabama Legislature.

Approved March 26, 1984

Time: 10:50 A.M.

Act No. 84-90

S.J.R. 85—Senators Pearson, Bennett,  
Hilliard, Cabaniss and  
Parsons

## SENATE JOINT RESOLUTION

**COMMENDING COACH GENE BARTOW OF THE UNIVERSITY OF ALABAMA-BIRMINGHAM.**

WHEREAS, the Alabama Legislature, in consensus of highest praise, extends its congratulations to Coach Gene Bartow of the University of Alabama-Birmingham; and

WHEREAS, during the 1983-84 basketball season and while leading his Blazers to UAB's third Sun Belt Conference Tournament Championship, Coach Bartow recorded his 400th career victory, a milestone win which places him in a very select group of America's most successful college basketball coaches; and

WHEREAS, during the last four years at UAB, Coach Bartow has produced three 20-game winners; he also has coached the first team ever to win three consecutive Sun Belt Conference Tournament Titles—1982, 1983 and 1984—and has coached the first state school ever to appear in four consecutive NCAA Tournaments—1981 through 1984; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein express utmost commendation of Coach Gene Bartow of the University of Alabama-Birmingham; we further congratulate Coach Bartow on his outstanding career and direct that he receive a copy of this resolution in small token of our warmest personal regard.

Approved March 26, 1984

Time: 10:50 A.M.

Act No. 84-91

S.J.R. 86—Senators Pearson, Bennett,  
Hilliard, Cabaniss and  
Parsons

**SENATE JOINT RESOLUTION**

**COMMENDING AND CONGRATULATING THE 1983-84 UAB BLAZERS, SUN BELT CONFERENCE TOURNAMENT CHAMPIONS.**

WHEREAS, on behalf of the entire State of Alabama, we today express highest commendation and extend heartiest congratulations to the 1983-84 UAB Blazer Basketball Team; and

WHEREAS, the UAB Blazers, big 23-game winners for '83-'84, also clinched the UAB Classic Tournament with a 81-76 victory over Villanova in three overtimes; and

WHEREAS, further, the mighty UAB cagers made it three in a

row, blazing their way to their third consecutive Sun Belt Conference Title, successively defeating South Alabama, 76-68; Virginia Commonwealth, 54-52; and Old Dominion in the finals, 62-60; and

WHEREAS, it is also to be noted that this was the Blazers' fourth consecutive NCAA Tournament appearance, and their fifth post-season appearance in only six seasons of competition; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we stand in tribute to Alabama's own Sun Belt Conference Tournament Champions, the 1983-84 UAB Blazer Basketball Team; we further congratulate the entire team and Coach Gene Bartow on their spectacular season and direct that they receive copies of this resolution, expressing the Legislature's pride in their accomplishments.

Approved March 26, 1984

Time: 10:50 A.M.

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Act No. 84-92

S.J.R. 29—Senator Parsons

### SENATE JOINT RESOLUTION

STATING LEGISLATIVE AUTHORITY RELATIVE TO ACT NO. 81-899, S. 32, FIRST SPECIAL SESSION, 1981.

WHEREAS, it is the law as prescribed by the Constitution of the State of Alabama that within their respective spheres each branch of government is supreme and only the legislature, under the Constitution of Alabama of 1901, has the power to propose amendments to the Constitution; and

WHEREAS, the legislature hereby finds and declares as follows: that S. 32 of the First Special Session of the 1981 Legislature which was designated Act 81-889, was such a proposed amendment that never received final action and was unfinished business of the 1982 Regular Session of the Alabama Legislature; now therefore,

BE IT RESOLVED BY THE ALABAMA LEGISLATURE, BOTH HOUSES THEREOF CONCURRING, That we do direct that this public document, along with other papers and documents of the House and Senate shall be kept in accordance with Sections 29-1-15, 29-1-16 and 29-1-17, Code of Alabama 1975, with the records, papers and documents belonging to the legislature, and shall remain there until the legislature dictates otherwise.

RESOLVED FURTHER, That further action on this proposed

amendment is improper, unconstitutional, and should be moot.

Approved March 26, 1984

Time: 10:50 A.M.

Act No. 84-93

S. 27—Senators Corbett, Covington, Dixon,  
Holmes, Menton and Bennett

### AN ACT

Relating to the existence and functioning of the state board of Social Work Examiners provided for in Section 34-30-50, et seq. of the Code of Alabama 1975, amends Section 34-30-29 so as to specify the period of time for continuing supervision of licensed bachelor social workers and amends Section 34-30-56 so as to require publications of notice of meetings.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The board of Social Work Examiners, created by Section 34-30-50 of the Code of Alabama 1975 [Acts 1977, No. 652, p. 1102, § 8] is hereby continued.

**Section 2.** Section 34-30-29 is hereby amended as follows:

“§ 34-30-29. Effective January 1, 1984, and thereafter, each person licensed under this chapter as a licensed bachelor social worker who has received two years or more of continuing supervision from a licensed graduate social worker or a licensed certified social worker may engage in the practice of social work without further supervision as long as this person remains in their same type of social work practice.

**Section 3.** Section 34-30-56 is hereby amended as follows:

“§ 34-30-56. The board of Social Work Examiners shall organize upon appointment and qualification of its members, and shall elect annually from its membership a chairman, a vice-chairman and a secretary. The board shall meet twice each year and as frequently as it deems necessary at such times and places as the board designates. Additional meetings may be held upon call of the chairman or upon the written request of four members of the board. Four members of the board shall constitute a quorum. All members of the board must be notified in writing at least five days prior to all meeting dates. All such board meetings shall be open to the public and appropriate public notice shall be made.”

**Section 4.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 6.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 26, 1984

Time: 1:35 P.M.

Act No. 84-94

S. 28—Senators Corbett, Covington, Dixon,  
Holmes, Menton and Bennett

### AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Examiners in Psychology as provided in Sections 34-26-1 through 34-26-48, Code of Alabama 1975, and the Legislature's concurrence thereof.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is declared that pursuant to the Alabama Sunset Law, Sections 41-20-1 through 41-20-16, Code of Alabama 1975, as amended, the Sunset Committee entered upon its duties, held public hearings, received testimony from the public and all interested parties relating to the continued existence and functioning of the Alabama Board of Examiners in Psychology, and voted to recommend the continuance of the board created and functioning pursuant to Sections 34-26-1 through 34-26-48, Code of Alabama 1975, which Code sections are expressly continued.

**Section 2.** The Legislature concurs in the recommendations of the Sunset Committee provided in Section 1 of this Act.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 26, 1984

Time: 1:35 P.M.

Act No. 84-95

S. 29—Senators Corbett, Covington, Dixon,  
Holmes, Menton and Bennett

## AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama State Board of Public Accountancy as provided in Sections 34-1-1 through 34-1-22, Code of Alabama 1975, and the Legislature's concurrence thereof.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is declared that pursuant to the Alabama Sunset Law, Sections 41-20-1 through 41-20-16, Code of Alabama 1975, as amended, the Sunset Committee entered upon its duties, held public hearings, received testimony from the public and all interested parties relating to the continued existence and functioning of the Alabama State Board of Public Accountancy, and voted to recommend the continuance of the board created and functioning pursuant to Sections 34-1-1 through 34-1-22, Code of Alabama 1975, which Code sections are expressly continued.

**Section 2.** The Legislature concurs in the recommendations of the Sunset Committee provided in Section 1 of this Act.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 26, 1984

Time: 1:35 P.M.

Act No. 84-96

S. 31—Senators Corbett, Covington, Dixon,  
Holmes, Menton and Bennett

## AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Funeral Service as provided in Sections 34-13-1 through 34-13-31, Code of Alabama 1975, and the Legislature's concurrence thereof.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is declared that pursuant to the Alabama Sun-



set Law, Sections 41-20-1 through 41-20-16, Code of Alabama 1975, as amended, the Sunset Committee entered upon its duties, held public hearings, received testimony from the public and all interested parties relating to the continued existence and functioning of the Alabama Board of Funeral Service, and voted to recommend the continuance of the board created and functioning pursuant to Sections 34-13-1 through 34-13-31, Code of Alabama 1975, which Code sections are expressly continued.

**Section 2.** The Legislature concurs in the recommendations of the Sunset Committee provided in Section 1 of this Act.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 26, 1984

Time: 1:35 P.M.

Act No. 84-97

S. 32—Senators Corbett, Covington, Dixon,  
Holmes, Menton and Bennett

# AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Real Estate Commission as provided in Sections 34-27-1 through 34-27-38, Code of Alabama 1975, and the Legislature's concurrence thereof.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is declared that pursuant to the Alabama Sunset Law, Sections 41-20-1 through 41-20-16, Code of Alabama 1975, as amended, the Sunset Committee entered upon its duties, held public hearings, received testimony from the public and all interested parties relating to the continued existence and functioning of the Alabama Real Estate Commission, and voted to recommend the continuance of the commission created and functioning pursuant to Sections 34-27-1 through 34-27-38, Code of Alabama 1975, which Code sections are expressly continued.

**Section 2.** The Legislature concurs in the recommendations of the Sunset Committee provided in Section 1 of this Act.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 26, 1984

Time: 1:35 P.M.

Act No. 84-98

S. 34—Senators Corbett, Covington, Dixon,  
Holmes, Menton and Bennett

### AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Insurance Department as provided in Sections 27-2-1 through 27-2-55, Code of Alabama 1975, and the Legislature's concurrence thereof.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is declared that pursuant to the Alabama Sunset Law, Sections 41-20-1 through 41-20-16, Code of Alabama 1975, as amended, the Sunset Committee entered upon its duties, held public hearings, received testimony from the public and all interested parties relating to the continued existence and functioning of the Insurance Department, and voted to recommend the continuance of the department created and functioning pursuant to Sections 27-2-1 through 27-2-55, Code of Alabama 1975, which Code sections are expressly continued.

**Section 2.** The Legislature concurs in the recommendations of the Sunset Committee provided in Section 1 of this Act.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 26, 1984

Time: 1:35 P.M.

Act No. 84-99

S. 35—Senators Corbett, Covington, Dixon,  
Holmes, Menton and Bennett

AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Securities Commission as provided in Sections 8-6-50 through 8-6-60, Code of Alabama 1975, and the Legislature's concurrence thereof.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is declared that pursuant to the Alabama Sunset Law, Sections 41-20-1 through 41-20-16, Code of Alabama 1975, as amended, the Sunset Committee entered upon its duties, held public hearings, received testimony from the public and all interested parties relating to the continued existence and functioning of the Securities Commission and voted to recommend the continuance of the commission created and functioning pursuant to Sections 8-6-50 through 8-6-60, Code of Alabama 1975, which Code sections are expressly continued.

**Section 2.** The Legislature concurs in the recommendations of the Sunset Committee provided in Section 1 of this Act.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 26, 1984

Time: 1:35 P.M.

Act No. 84-100

S. 36—Corbett, Covington, Dixon, Holmes,  
Menton and Bennett

AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Pilotage Commissioners as provided in Sections 33-4-1 through 33-4-

14, Code of Alabama 1975, and the legislature's concurrence thereof.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is declared that pursuant to the Alabama Sunset Law, Sections 41-20-1 through 41-20-16, Code of Alabama 1975, as amended, the Sunset Committee entered upon its duties, held public hearings, received testimony from the public and all interested parties relating to the continued existence and functioning of the Board of Pilotage Commissioners, and voted to recommend the continuance of the board created and functioning pursuant to Sections 33-4-1 through 33-4-14, Code of Alabama 1975, which Code sections are expressly continued.

**Section 2.** The Legislature concurs in the recommendations of the Sunset Committee provided in Section 1 of this Act.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 26, 1984

Time: 1:35 P.M.

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Act No. 84-101

S. 37—Senators Corbett, Covington, Dixon,  
Holmes, Menton and Bennett

**AN ACT**

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Public Service Commission as provided in Sections 37-1-1 through 37-1-157, Code of Alabama 1975, and the legislature's concurrence thereof.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is declared that pursuant to the Alabama Sunset Law, Sections 41-20-1 through 41-20-16, Code of Alabama 1975, as amended, the Sunset Committee entered upon its duties, held public hearings, received testimony from the public and all interested parties relating to the continued existence and functioning of the Public Service Commission, and voted to recommend the continuance of the commission created and functioning pursuant to Sections 37-1-1 through 37-1-157, Code of Alabama 1975, which Code

sections are expressly continued.

**Section 2.** The Legislature concurs in the recommendations of the Sunset Committee provided in Section 1 of this Act.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 26, 1984

Time: 1:35 P.M.

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Act No. 84-102

S. 38—Senators Corbett, Covington, Dixon,  
Holmes, Menton and Bennett

### AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Professional Entomologists, horticulturists, plant pathologists, floriculturists and tree surgeons examining board as provided in Sections 2-28-1 through 2-28-12, Code of Alabama 1975, and the legislature's concurrence thereof.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is declared that pursuant to the Alabama Sunset Law, Sections 41-20-1 through 41-20-16, Code of Alabama 1975, as amended, the Sunset Committee entered upon its duties, held public hearings, received testimony from the public and all interested parties relating to the continued existence and functioning of the Professional Entomologists, horticulturists, plant pathologists, floriculturists and tree surgeons examining board and voted to recommend the continuance of the board created and functioning pursuant to Sections 2-28-1 through 2-28-12, Code of Alabama 1975, which Code sections are expressly continued.

**Section 2.** The Legislature concurs in the recommendations of the Sunset Committee provided in Section 1 of this Act.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 26, 1984

Time: 1:35 P.M.

Act No. 84-103

S. 41—Senators Corbett, Covington, Dixon,  
Holmes, Menton and Bennett

### AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Plumbing Examiners Board as provided in Section 40-12-145, Code of Alabama 1975, and the legislature's concurrence thereof.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is declared that pursuant to the Alabama Sunset Law, Sections 41-20-1 through 41-20-16, Code of Alabama 1975, as amended, the Sunset Committee entered upon its duties, held public hearings, received testimony from the public and all interested parties relating to the continued existence and functioning of the Plumbing Examiners Board, and voted to recommend the continuance of the board created and functioning pursuant to Sections 40-12-145, Code of Alabama 1975, which Code sections are expressly continued.

**Section 2.** The Legislature concurs in the recommendations of the Sunset Committee provided in Section 1 of this Act.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 26, 1984

Time: 1:35 P.M.

Act No. 84-104

S. 42—Senators Corbett, Covington, Dixon,  
Holmes, Menton and Bennett

## AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Liquefied Petroleum Gas Board as provided in Sections 9-17-100 through 9-17-110, Code of Alabama 1975, and the legislature's concurrence thereof.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is declared that pursuant to the Alabama Sunset Law, Sections 41-20-1 through 41-20-16, Code of Alabama 1975, as amended, the Sunset Committee entered upon its duties, held public hearings, received testimony from the public and all interested parties relating to the continued existence and functioning of the Liquefied Petroleum Gas Board, and voted to recommend the continuance of the board created and functioning pursuant to Sections 9-17-100 through 9-17-110, Code of Alabama 1975, which Code sections are expressly continued.

**Section 2.** The Legislature concurs in the recommendations of the Sunset Committee provided in Section 1 of this Act.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 26, 1984

Time: 1:35 P.M.

Act No. 84-105

S. 43—Senators Corbett, Covington, Dixon,  
Holmes, Menton and Bennett

## AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the State Board of Auctioneers as provided in Sections 34-4-1 through 34-4-54, Code of Alabama 1975, and the legislature's concurrence thereof.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is declared that pursuant to the Alabama Sunset Law, Sections 41-20-1 through 41-20-16, Code of Alabama 1975, as amended, the Sunset Committee entered upon its duties, held public hearings, received testimony from the public and all interested parties relating to the continued existence and functioning of

the State Board of Auctioneers, and voted to recommend the continuance of the board created and functioning pursuant to Sections 34-4-1 through 34-4-54, Code of Alabama 1975, which Code sections are expressly continued.

**Section 2.** The Legislature concurs in the recommendations of the Sunset Committee provided in Section 1 of this Act.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 26, 1984

Time: 1:35 P.M.

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Act No. 84-106

S. 44—Senators Corbett, Covington, Dixon,  
Holmes, Menton and Bennett

### AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Nursing as provided in Sections 34-21-1 through 34-21-26, Code of Alabama 1975, and the legislature's concurrence thereof.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is declared that pursuant to the Alabama Sunset Law, Sections 41-20-1 through 41-20-16, Code of Alabama 1975, as amended, the Sunset Committee entered upon its duties, held public hearings, received testimony from the public and all interested parties relating to the continued existence and functioning of the Alabama Board of Nursing, and voted to recommend the continuance of the board created and functioning pursuant to Sections 34-21-1 through 34-21-26, Code of Alabama 1975, which Code sections are expressly continued.

**Section 2.** The Legislature concurs in the recommendations of the Sunset Committee provided in Section 1 of this Act.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this



act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 26, 1984

Time: 1:35 P.M.

Act No. 84-107

S. 39—Senators Corbett, Covington, Dixon,  
Holmes, Menton and Bennett

### AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the State Board of Heating and Air Conditioning Contractors as provided in Sections 34-31-18 through 34-31-34, Code of Alabama 1975, and the legislature's concurrence thereof.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is declared that pursuant to the Alabama Sunset Law, Sections 41-20-1 through 41-20-16, Code of Alabama 1975, as amended, the Sunset Committee entered upon its duties, held public hearings, received testimony from the public and all interested parties relating to the continued existence and functioning of the State Board of Heating and Air Conditioning Contractors, and voted to recommend the continuance of the board created and functioning pursuant to Sections 34-31-18 through 34-31-34, Code of Alabama 1975, which Code sections are expressly continued.

**Section 2.** The Legislature concurs in the recommendations of the Sunset Committee provided in Section 1 of this Act.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 29, 1984

Time: 3:35 P.M.

Act No. 84-108

S. 91—Senator Smith (J)

## AN ACT

To amend Section 8-8-5 of the Code of Alabama 1975, which relates to interest rates, so as to remove the Sunset or termination date on the provisions of said section as it applies to loans of \$25,000.00 or less.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 8-8-5, Code of Alabama 1975, is hereby amended to read as follows:

§ 8-8-5.

“(a) Any person or persons, corporations, trust, general partnership or partnerships, limited partnership or partnerships, or association may agree to pay such rate or rates of interest for the loan or forbearance of money and for any credit sales as such person, corporation, trust, general partnership, limited partnership or association may determine, notwithstanding any law of this state otherwise prescribing or limiting such rate or rates of interest; provided, that the original principal balance of the loan or forbearance of money or credit sales is not less than \$5,000.00; provided further, that all laws relating to unconscionability in consumer transactions including but not limited to the provisions of chapter 19 of Title 5, known as the Mini-Code, shall apply to transactions covered by this section.

“(b) As to any such loan or forbearance of money or credit sales made in compliance with subsection (a) of this section, neither such person, corporation, trust, general partnership, limited partnership or association, nor their heirs, successors or assigns, nor any surety, guarantor, endorser or any other person, firm, partnership, association, trust or corporation which may become liable, in whole or in part, for the payment of the debt and interest agreed to be paid thereon in accordance with the terms hereof, or any extension, amendment or renewal thereof, may raise or claim the defense or benefit of the usury laws or any other law prescribing, regulating or limiting such rate or rates of interest.

“(c) The term ‘original principal balance,’ as used herein, shall include the total principal amount of indebtedness incurred or contracted for in a loan, forbearance of money, credit sales or in a single issue or sale of bonds, debentures, promissory notes or like transaction, without regard either to the face amount or denomination of any bond, debenture, note or other evidence of indebtedness constituting a part of such issue or sale, or to the amount of the initial or any subsequent advance pursuant to such loan, forbearance or credit sales. The term ‘interest’ as used herein shall include all direct or

indirect charges imposed as an incident to a loan, forbearance of money or credit sales.

“(d) This section shall apply to any person or entity, whether or not organized for profit, and to transactions both prior to and after default, but shall not apply to any agreement involving the loan or forbearance of money or credit sales where the original principal balance is less than \$5,000.00.

“(e) The provisions of this section are cumulative to, and not in derogation of, rights under other provisions of state or federal law and shall not in any way repeal, amend or modify the provisions of Public Law 96-221 enacted by the congress of the United States and approved March 31, 1980, as amended.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on April 4, 1984 without approval by the Governor.

Act No. 84-109

S.J.R. 44—Senator Corbett

## SENATE JOINT RESOLUTION

**CREATING SELECT COMMITTEE TO CONSIDER HOSTING SOUTHERN LEGISLATIVE CONFERENCE ON CHILDREN AND YOUTH IN ALABAMA.**

WHEREAS, the Southern Legislative Conference on Children and Youth has enabled states to educate key decision makers, thereby resulting in the passage of major legislation benefiting and serving its youth; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created a select committee to consider seeking Alabama as the host state for the Southern Legislative Conference on Children and Youth, to be called The Southern Conference on Children and Youth Committee. The committee shall consist of six (6) members as follows: The Governor, or his designee, the Director of the Youth Services Department, or his designee, the Lieutenant Governor, one Senate member selected by the Lieutenant Governor, the Speaker of the House, one House member selected by the Speaker.

The committee shall select from among its members a chairman. The committee shall meet upon the call of its chairman. The

committee is authorized to employ clerical help for the committee's business.

The legislative members of the committee shall receive their regular legislative expenses, compensation and per diem for each day the committee meets, provided the entire expenses of the committee shall not exceed \$10,000.00.

There is hereby appropriated from funds available to the legislature such amounts not to exceed \$10,000.00, as are necessary for the committee's use.

Approved March 29, 1984

Time: 3:35 P.M.

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Act No. 84-110

S.J.R. 99—Senator Bedsole

### SENATE JOINT RESOLUTION

**COMMENDING THE ALABAMA ASSOCIATION OF COLLEGE TEACHERS OF MATHEMATICS AND THE ALABAMA COUNCIL OF TEACHERS OF MATHEMATICS.**

WHEREAS, the Alabama Legislature notes with commendation the fourth annual statewide mathematics contest for secondary school students to be held March 24, 1984; and

WHEREAS, following a written examination in the geometry, algebra II or comprehensive division, scores will be evaluated to determine schools with the highest team scores, thereby qualifying for further competition to be held in Montgomery, April 28, 1984; and

WHEREAS, for the purposes of generating interest in and love of mathematics, and in encouragement of advanced study in mathematics by our state's youth, the contest is jointly sponsored by the Alabama Association of College Teachers of Mathematics and the Alabama Council of Teachers and Mathematics; and

WHEREAS, these two professional groups are indeed to be praised for their efforts in promoting the study of more mathematics in Alabama schools, and for their support and encouragement of excellence in mathematics; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we herein express highest commendation of the Alabama Association of College Teachers of Mathematics and the Alabama Council of Teachers of Mathematics for their sponsorship of the State Mathematics Contest.

BE IT FURTHER RESOLVED, That in appreciation of the groups' dedicated efforts in seeking to upgrade the mathematics programs in our schools, a copy of this resolution shall be forwarded to Dr. Suzanne McGill, Chairman of the State Mathematics Contest Committee.

Approved March 29, 1984

Time: 2:15 P.M.

Act No. 84-111

S.J.R. 100—Senators Little and Foshee

### SENATE JOINT RESOLUTION

#### MOURNING THE DEATH OF MR. EDWARD A. DANNELLY OF ANDALUSIA, ALABAMA.

WHEREAS, the Legislature of Alabama grievously records the death of Mr. Edward A. Dannelly of Andalusia, Alabama, on March 12, 1984, at the age of 71 years; and

WHEREAS, Mr. Dannelly, a resident of Andalusia since 1948, was a distinguished journalist whose lengthy newspaper career included some 24 years as editor and co-owner of the Andalusia Star-News; he had worked previously for several newspapers in various locales, including Atlanta, Georgia, and had also served in Washington as executive assistant to Congressman George Andrews immediately prior to his acquisition of the Star-News; and

WHEREAS, Mr. Dannelly's death had indeed left a deep void in his beloved community and he will long be remembered with love and gratitude for his selfless and even sacrificial service on behalf of others; and

WHEREAS, he was an active member, church lay leader, member of the administrative board and former Sunday School teacher at First United Methodist Church; he also was deeply involved in such areas as the Boy Scout program and as a member, past president and Paul Harris Fellow of the Andalusia Rotary Club; and

WHEREAS, Mr. Dannelly was a former Citizen of the Year of the Kiwanis Club, the recipient of an honorary doctorate degree from Birmingham-Southern College, a trustee of both BSC and the University of South Alabama and was president in 1966-67 of the Alabama Press Association; and

WHEREAS, in addition to his honorary doctorate, Mr. Dannelly's earned degrees from Birmingham-Southern and the School of Journalism of Columbia University in New York; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in deeply shared sorrow with the Andalusia Community and his family, we grievously mourn the death of Mr. Edward A. Dannelly.

BE IT FURTHER RESOLVED, That copies of this resolution shall be forwarded to Mr. Dannelly's sons, Edward E., III, and William D. Dannelly, and other family members in expression of our deepest and most heartfelt sympathy.

Approved March 29, 1984

Time: 2:15 P.M.

Act No. 84-112

S.J.R. 101—Senator Little

### SENATE JOINT RESOLUTION

NAMING THE HEALTH AND ARTS BUILDING AT ALEXANDER CITY STATE JUNIOR COLLEGE, THE "W. BYRON CAUSEY HEALTH EDUCATION AND ARTS COMPLEX."

WHEREAS, in September 1984, Alexander City State Junior College will begin its 20th year of providing exceptional educational opportunities for both youth and adults in the State of Alabama; and

WHEREAS, it is to be noted Dr. W. Byron Causey has served as Alexander City State Junior College's only president and it is largely through his tireless dedication to achieving excellence in education that the college has come to be recognized as one of the most outstanding two-year institutions in the United States; and

WHEREAS, Dr. Causey, who has served in education for some 35 years, also has been instrumental in the work of such professional organizations as the American Association of Community and Junior Colleges, the Association of Community College Trustees, the President's Academy of AACJA, and the National Council of Resource Development; and

WHEREAS, he further has been a longtime advocate, on the national level, of two-year colleges and is widely known for his accomplishments in prison education programs; and

WHEREAS, in addition to his numerous professional involvements, Dr. Causey also has served in civic responsibility and concern; his activities within the community, as well as statewide and nationally, are quite lengthy and include a wide diversity of areas; and

WHEREAS, it is entirely fitting and proper that on the 20th anniversary of Alexander City State Junior College, its first and only president should be recognized for extraordinary service, not only to the college, but to his community, state and nation as well; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in honor of Dr. W. Byron Causey, we hereby name and designate the health and arts building at Alexander City State Junior College, the "W. Byron Causey Health Education and Arts Complex."

BE IT FURTHER RESOLVED, That the proper authorities are hereby directed to erect and maintain appropriate signs and markers so designating said building and that, further, a copy of this resolution shall be presented to Dr. Causey as a memento of this honorary designation of the Alabama Legislature.

Approved March 29, 1984

Time: 2:15 P.M.

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Act No. 84-113

S.J.R. 102—Senator Little

### SENATE JOINT RESOLUTION

#### COMMENDING CLAIRE NELL FULLER.

WHEREAS, Claire Nell Fuller graduated from Alexander City High School in 1942, as valedictorian; and

WHEREAS, she is a graduate of Judson College where she was a member of the Student Government Association, a member and officer of the Glee Club, representative on the Athletic Board, president of Jewett dormitory, an active athlete throughout student days and was named to Who's Who in American Colleges and Universities in 1946; and

WHEREAS, a lifetime member of the First Baptist Church in Alexander City, Miss Fuller has been active in all phases of church activities including the Women's Missionary Union, Church Training, Handbell Choir, as a Sunday school teacher of both youth and adults, as a pianist, as a choir member, and as church organist since 1970; and

WHEREAS, the church secretary describes her as a member-faithful, useful and helpful; and

WHEREAS, Miss Fuller is an active member and past president of Alpha Delta Kappa teachers' sorority and the Twentieth

Century Study Club; and

WHEREAS, Claire Nell Fuller began her employment with the Alexander City Board of Education April 1, 1948, under Superintendent of Education, Mr. George W. Hulme, and in her thirty-six years of service to the Alexander City Board of Education she also has worked under the direction of three other superintendents of education, Mr. P. G. Myer, Mr. S.C. Doss, Jr., and Dr. Paul W. Fanning; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That this legislature would like to recognize Claire Nell Fuller for her dedicated service and contribution to the people of this state and extend to her every good wish upon her forthcoming retirement.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to Claire Nell Fuller.

Approved March 29, 1984

Time: 2:15 P.M.

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Act No. 84-114

S.J.R. 104—Senator Ellis

### SENATE JOINT RESOLUTION

**MOURNING THE DEATH OF MR. JAMES DONALD BULGER, PROMINENT ALABAMA EDUCATOR.**

WHEREAS, it is with deep sadness and regret that the Legislature of Alabama notes the untimely death of Mr. James Donald Bulger of Pelham, Alabama, on February 24, 1984, at the age of just 49 years; and

WHEREAS, Mr. Bulger, who at the time of his death was serving as principal of Shelby County High School, was a graduate of Sylacauga High School and of Jacksonville State College with a B.S. degree; he also earned the Master's degree as well as his AA Certification at the University of Alabama-Birmingham; and

WHEREAS, Mr. Bulger began his career in education as an assistant coach at Monroe County High School in 1956; he then served successively as head coach at Shelby County High, head coach and athletic director at Gadsden's Emma Sansom High School, as principal at Gadsden High, and as principal at Etowah County before returning to Shelby County High School as principal in 1974; and

WHEREAS, during his tenure as head coach at Shelby County, from 1957 to 1966, Coach Bulger led his football teams to a state



record of no losses for more than four years; and

WHEREAS, Mr. Bulger was indeed one of Alabama's most prominent educators and one who was widely recognized as a leader in his field; he further served in genuine concern for each student under his care and guidance, placing first priority on what was best for the individual at all times; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Mr. James Donald Bulger of Pelham, Alabama, and extend our most heartfelt sympathy to his family, and to all those who are sorely bereft in their great and grievous loss.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to his beloved wife, Mrs. Regina Bulger, that she and their children and other family members may know of our concern for them during their time of such deep sorrow.

Approved March 29, 1984

Time: 2:15 P.M.

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Act No. 84-115

S.J.R. 103—Senator Denton

### SENATE JOINT RESOLUTION

EXPRESSING JUDGEMENT THAT EXPENDITURES SHOULD BE MADE BY POSTSECONDARY SCHOOLS IN COMPROMISE OF CLAIMS RESULTING FROM FAILURE OF HOSPITAL-MEDICAL INSURANCE PROGRAM.

WHEREAS, The Legislature has granted authority to the State Board of Education through the Chancellor of Postsecondary Education to serve as the governing board of trustees for Alabama's junior, technical and community colleges; and

WHEREAS, in fulfillment of the responsibility which the State Board of Education has to the employees of Alabama's junior, technical and community colleges, the Board has authorized allotment of state funds to employees for hospital-medical insurance coverage to be provided for the benefit of the employees of the junior, technical and community colleges; and

WHEREAS, these employees using in large part State funds which were provided in the form of hospital-medical insurance allotments joined in a self-funded health insurance program which through no fault of these employees has failed leaving numerous unpaid claims for health services which these employees are financially

unable to pay; and

WHEREAS, the State Board of Education has indicated a desire to assist these employees in the compromise of outstanding claims; and

WHEREAS, the Legislature finds that such assistance would materially benefit the efficiency and effectiveness of these employees and thus is in the best interest of the State; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby express our judgment that the expenditures of available resources of the junior, technical and community colleges to assist in the compromise of claims and payment of necessary fees and expenses resulting from the failure of this self-funded insurance program are legitimate and permissible.

Approved March 29, 1984

Time: 2:15 P.M

Act No. 84-116

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H.J.R. 40—Reps. Penry, Adams, Albright, Bachus, Beers, Biddle, Black, Blake, Blakeney, Boles, Bowling, Box, Brakefield, Britnell, Brooks, Browder, Bryant, Bugg, Burke, Buskey (James), Buskey (John), Butler, Campbell, Carothers, Carter, Clark (D), Clark (J), Clark (W), Coburn, Coleman, Cosby, Crow, Davis, Drake, Dutton, Escott, Faulk, Flowers, Ford, Fuller, Gaston, Goodwin, Gray, Grayson, Grimsley, Grouby, Hall, Hammett, Harper, Harvey, Hettinger, Holley, Holmes, Hooper, Horn, Johnson (RG), Johnson (Roy), Junkins, Kennedy, Kvalheim, Laird, Lauderdale, Lindsey, McDowell, McKee, McMillan, McNair, Marietta, Martin, Mathis, Melton, Mikell, Mitchell, Moore, Newman,

Nicholson, Onderdonk,  
 Parker, Payne, Perdue, Poole,  
 Pratt, Preuitt, Rains, Reed,  
 Rice, Richardson, Rogers,  
 Sasser, Seibels, Smith, Spratt,  
 Starkey, Starr, Tanner,  
 Thomas, Trammell, Turner,  
 Turnham, Venable, Warren,  
 White (F), White (G), White  
 (L), Zoghby

### HOUSE JOINT RESOLUTION

REQUESTING THAT THE INTERSTATE COMMERCE COMMISSION HOLD A PUBLIC HEARING ON AB-55 (SUB. NO. 96).

WHEREAS, Baldwin County is a large agricultural county which produces many different kinds of row crops and especially grain and cattle; and

WHEREAS, the deletion of this section of railroad would leave this area without competitive rates in supplying grain, feed, and fertilizer to our important agricultural county; and abandonment of this rail would divert shipping to state highway 59 which is a major tourist route, and

WHEREAS, this railroad is very important to future industry that might consider locating in this area; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Interstate Commerce Commission hold a public hearing in or near Baldwin County concerning the abandonment of 33.5 miles of railroad between Bay Minette and Foley in Baldwin County, Alabama, so that the people involved may have an opportunity to present testimony that this railroad has been very vital to the agricultural and lumber industries in Baldwin County.

Approved March 29, 1984

Time: 3:35 P.M.

Act No. 84-117

H.J.R. 70—Rep. Campbell

### HOUSE JOINT RESOLUTION

WHEREAS, the Judicial System of the United States has developed into an overly expensive, overly time consuming, inefficient

and inadequate method of enforcing the laws of the United States and of the various states and in insuring the rights and privileges of the citizens of this country, and

WHEREAS, the Judiciary, the Bar Association, and lawyers and judges as a whole have suffered and are suffering tremendous slippages in public esteem and public approval, and

WHEREAS, the Governor of the State of Alabama, governors of other states, and the Chief Justice of the United States Supreme Court have, both publicly and privately expressed sincere and serious concerns over developments that have taken place in the judicial system of the United States, and

WHEREAS, it is difficult, if not impossible for any individual state to make meaningful improvements in their individual judicial systems, without such improvements being coordinated with improvements in the entire judicial system of the United States, and

WHEREAS, the citizens of the greatest nation on earth are entitled to a judicial system which is equally great, but which obviously does not exist at the present time, and

WHEREAS, it is past the time for meaningful judicial reform to take place in the United States, which reforms must be led by the Congress of the United States and the Executive Department of the United States government, with the several states thereafter implementing appropriate action, and

WHEREAS, this problem is of such magnitude and is of such tremendous negative impact on the lives, freedoms, and well-being of the citizens of the United States that immediate remedial action is dictated.

THEN THEREFORE, BE IT RESOLVED, by the Legislature of the State of Alabama, both houses concurring, and with the approval of the Governor of the State of Alabama, we do hereby implore the President of the United States, and the United States Congress to act immediately, by the appointing of a special panel, task force, or commission to study the entire judicial system of the United States, and the several states, under a charge to fully investigate this matter and to make appropriate findings of fact, suggestions, and recommendations which may be implemented and which will be designed to bring about meaningful affirmative changes in the judicial system of the United States.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the Governor, the President of the United States, the Alabama congressional delegation, and the Chief Justice of the United States Supreme Court.

Approved March 29, 1984

Time: 3:35 P.M.

Act No. 84-118

H.J.R. 75—Reps. Johnson (Roy), Cosby, White (F), Box, Turner, Bachus, Beers, Blake, Blakeney, Boles, Bowling, Brakefield, Browder, Bryant, Bugg, Burke, Buskey (James), Buskey (John), Carothers, Clark (D), Clark (J), Clark (W), Crow, Davis, Drake, Escott, Gaston, Gray, Grimsley, Grouby, Hall, Hammett, Harper, Hooper, Horn, Junkins, Kennedy, Kvalheim, Lauderdale, Lindsey, McDowell, McMillan, McNair, Mathis, Melton, Mikell, Mitchell, Moore, Newman, Onderdonk, Penry, Poole, Pratt, Preuitt, Reed, Rice, Richardson, Rogers, Seibels, Smith, Spratt, Starkey, Tanner, Thomas, Trammell, Venable, White (G)

## HOUSE JOINT RESOLUTION

PETITIONING THE PRESIDENT OF THE UNITED STATES TO REESTABLISH OFFICIAL GOVERNMENTAL RELATIONS WITH THE REPUBLIC OF CHINA AND PETITIONING OF THE CONGRESS OF THE UNITED STATES TO TAKE ANY NECESSARY ACTION TO PROVIDE SPECIFIC SECURITY GUARANTEES FOR THE REPUBLIC OF CHINA.

WHEREAS, the Republic of China is a long-time friend, ally and trade partner of the United States; and

WHEREAS, the Republic of China holds a pivotal, strategic position in Asia and the Western Pacific which is vitally important to the interest and the defense of the United States; and

WHEREAS, the people of the Republic of China enjoy a demo-

cratic way of life, a high standard of living and fundamental human rights; and

WHEREAS, continued friendship and trade with the Republic of China is vitally important to the State of Alabama and the United States; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That the Legislature, on behalf of the people of Alabama, petition the President to reestablish official governmental relations with the Republic of China, and that we petition the Congress of the United States to take all necessary actions to provide specific security guarantees for the Republic of China.

**BE IT FURTHER RESOLVED,** That a copy of this resolution be transmitted to the President of the United States, the Speaker of the House of Representatives of the United States and to each member of the Alabama Congressional Delegation.

Approved March 29, 1984

Time: 3:35 P.M.

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Act No. 84-119

H.J.R. 76—Reps. Drake, Bowling

### HOUSE JOINT RESOLUTION

**COMMENDING MR. N. F. PLUNKETT, JR., NATIONAL TRUCK DRIVER OF THE YEAR.**

WHEREAS, N. F. Plunkett, Jr., a native of Cullman County and lifelong citizen of Alabama, has attained an unblemished 37-year, 2.5 million mile accident-free professional truck driving record; and

WHEREAS, he is one of only three out of more than 1,000 professional truck driving employees of his company to attain a 35-year accident-free driving record; and

WHEREAS, his truck driving skills as a 1952 Alabama Truck Roadeo contestant won him the opportunity to compete in the National Truck Roadeo that year; and

WHEREAS, he has twice been distinguished as the Alabama Truck Driver of the Year, in 1979 and again in 1983, by the Alabama Trucking Association; and

WHEREAS, his performance as an employee of Chevron U.S.A., Inc., has been otherwise exemplary, as has been his private

and family life; and

WHEREAS, he has now been named the National Driver of the Year for 1984, by the American Trucking Associations, bringing credit to himself, his employer, Chevron U.S.A., Inc., the trucking industry, the City of Birmingham (Midfield) and the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Mr. N. F. Plunkett, Jr., for his outstanding attainment, and call to wide public attention throughout Alabama his example in the continuing goal of highway safety and the public interest.

BE IT FURTHER RESOLVED, That copies of this resolution be served to the Mayor of the City of Midfield, the Chairman of the Cullman County Commission, the American Trucking Associations, his employer, Chevron U.S.A., Inc., and the Governor of the State of Alabama, The Honorable George C. Wallace.

Approved March 29, 1984

Time: 2:15 P.M.

Act No. 84-120

H.J.R. 94—Reps. White (F), Warren

# HOUSE JOINT RESOLUTION

COMMENDING MR. AND MRS. CHESTER TURNER OF POLLARD, ALABAMA, ON THE OCCASION OF THEIR 60TH WEDDING ANNIVERSARY.

WHEREAS, the Alabama Legislature notes with pleasure the Sixtieth Wedding Anniversary on December 23, 1983, of Mr. and Mrs. Chester Turner of Pollard, Alabama; and

WHEREAS, Chester Turner and his lovely bride, Miss Ethel Andrews, were united in marriage on December 23, 1923, and have remained in said holy state for the past 60 years; and

WHEREAS, they have lived their lives as one and, in devotion each to the other, have remained steadfastly faithful to their marriage vows, setting an enviable example for others; and

WHEREAS, Mr. and Mrs. Turner, having lived previously in Peacock, Coxheath (now Sweetwater) and Fannie, Alabama, have been residents of Pollard since 1935; they are the parents of eight children—Lanace, Earl, Nell, Hollis, Elizabeth, Bobbie, Jewel and Chester, Junior—all of whom were in attendance, along with more

than one hundred well wishers, at a gala reception held in the couple's honor on January 1, 1984, in celebration of the joyous occasion; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we join with family and friends in congratulating this exemplary Escambia County couple, Mr. and Mrs. Chester Turner, and wish them many more happy years together.

**BE IT FURTHER RESOLVED,** That a copy of this resolution be sent to Mr. and Mrs. Turner that they may know of our congratulations and sincere best wishes for every future happiness together.

Approved March 29, 1984

Time: 2:15 P.M.

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Act No. 84-121

H.J.R. 101—Rep. Melton

### HOUSE JOINT RESOLUTION

**RECOGNIZING MARCH 2, 1984, AS CENTRAL HIGH LADY FALCONS DAY.**

**WHEREAS,** the Alabama Legislature notes with highest praise, the State girls basketball title captured by the Central High School Lady Falcons, 4-A Champions for 1983-84; and

**WHEREAS,** the Lady Falcons, also Region 8 champions, ended the season with an impressive overall 26-2 record following their defeat of McGill and Torles in the State tournament finals; and

**WHEREAS,** it is further to be noted that this is the second championship in the past three years for the Lady Falcon Cagers who also went all-the-way in 1981-82 to win the 4-A State Crown; now therefore

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That in commendation and with heartiest congratulations, we hereby recognize March 2, 1984, as Central High Lady Falcons Day.

**BE IT FURTHER RESOLVED,** That copies of this resolution so distinguishing said date, be forwarded to Central High School principals, Dr. Terrell Tinney and Dr. Oscar Tucker; to head coach Jim Holland and assistant coaches Garland Pounds and Wardell Davis, on behalf of the Lady Falcons; and to Dr. Thomas E. Ingram, superintendent of the Tuscaloosa City Schools.



Approved March 29, 1984

Time: 2:15 P.M.

Act No. 84-122

H.J.R. 102—Rep. Black

### HOUSE JOINT RESOLUTION

#### COMMENDING COACH NELSON R. HUGHES OF SUMTER COUNTY, LIVINGSTON HIGH SCHOOL.

WHEREAS, it is with utmost commendation that the Legislature of Alabama notes the remarkable career record of Coach Nelson Hughes, current Head Basketball Coach of Livingston High School in Sumter County; and

WHEREAS, during Coach Hughes' outstanding career which spans some 26 years—14 at Livingston High School. He holds title to an enviable record of 549 victories with only one losing season during this quarter century time frame; and

WHEREAS, Coach Hughes has directed his Cougars' teams to the State playoffs on eight occasions with some of those teams advancing to the semi-finals; he also has had several county championship teams as well as ten area championships to his credit; and

WHEREAS, Coach Hughes was granted special recognition by the State Athletic Association and many more other groups, local, area and regional in 1982 after his 500 wins; and

WHEREAS, Coach Hughes and the Livingston High Cougars won the Class III-A Area 5 playoffs by a score of 98 to 72 and made an impressive showing in the region 3 playoffs February 25, 1984; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly praise and commend Coach Nelson Hughes of Livingston High School, Sumter County, on his outstandingly successful career as a high school basketball coach.

BE IT FURTHER RESOLVED, That Coach Hughes be presented with a copy of this resolution, tendered in sincere warm praise and regard.

Approved March 29, 1984

Time: 2:15 P.M.

Act No. 84-123

H.J.R. 105—Reps. Lindsey, Rains

## HOUSE JOINT RESOLUTION

## NAMING THE COLLINSVILLE NATIONAL GUARD ARMORY, THE "SAMUEL CURTIS JONES ARMORY".

WHEREAS, a native and lifelong resident of Collinsville, Alabama, Samuel Curtis Jones died November 16, 1964; he and his wife, Mrs. Lucille Davis Jones, were the parents of five children and the loving grandparents of 12, one of whom is Miss Pam Battles currently serving as Miss Alabama; and

WHEREAS, Mr. Jones was a graduate of Collinsville High School and Auburn University; he was a farmer and also had worked with the Farm Security Administration and as county supervisor with the DeKalb County Veterans Training Programs; and

WHEREAS, inducted into the United States Army at Fort Knox, Kentucky, Mr. Jones served his country with distinction from January 24, 1942 until his discharge, with the rank of Captain, on January 9, 1946, his decorations included the Purple Heart and the European-African-Middle Eastern Service Medal with three Bronze Stars; and

WHEREAS, Mr. Samuel Curtis Jones also helped organize the Army National Guard unit at Collinsville, Alabama, and served as the unit's first commander; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in memory and honor of the late Samuel Curtis Jones, a distinguished Alabamian and American patriot, we hereby name and designate the National Guard armory at Collinsville, Alabama, the "Samuel Curtis Jones Armory."

BE IT FURTHER RESOLVED, That the proper authorities are directed to erect and maintain appropriate signs and markers so designating said armory as the "Samuel Curtis Jones Armory."

RESOLVED FURTHER, That Mr. Jones' family receive a copy of this resolution as a memento of this commemorative designation of the Alabama Legislature.

Approved March 29, 1984

Time: 2:15 P.M.

Act No. 84-124

H.J.R. 110—Reps. Brakefield, Nicholson

## HOUSE JOINT RESOLUTION

COMMENDING MRS. JEANETTE GROSS GUTHRIE OF JASPER, ALABAMA, MOTHER OF THE YEAR 1984.

WHEREAS, the Alabama Legislature expresses highest commendation, and extends heartiest congratulations to Mrs. Jeanette Gross Guthrie of Jasper, Alabama, Mother of the Year for 1984; and

WHEREAS, Mrs. Guthrie, who was selected from a field of six "Merit Mothers" from among numerous nominees throughout Alabama, is a native of Harlan, Kentucky, and a resident of Alabama since 1934; and

WHEREAS, Mrs. Guthrie, who was married at the age of 16 years to Mayo Guthrie, is the mother of five children and the grandmother of 12 grandchildren and one great grandchild; and

WHEREAS, though Mrs. Guthrie's formal schooling had been interrupted for financial reasons, she resumed her educational pursuits following establishment of the GED certification program, eventually receiving the bachelor's degree from the University of Alabama; she then began a career as a school teacher, which lasted until her 1980 retirement; and

WHEREAS, Mrs. Guthrie, in addition to maintaining her home, assisted in her husband's business, taught Sunday School and cared for several other family members; she also was active in PTA, the Heritage Association, Extension programs, Red Cross and many other activities of civic and community concern; now therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE LEGISLATURE OF ALABAMA, That we herein most highly commend Mrs. Jeanette Gross Guthrie as 1984 Alabama Mother of the Year and direct that she receive a copy of this resolution, tendered in sincerest praise and utmost regard.

Approved March 29, 1984

Time: 2:15 P.M.

Act No. 84-125

H.J.R. 112—Rep. Black

## HOUSE JOINT RESOLUTION

COMMENDING MR. AND MRS. LAWRENCE LEVI DELAINE ON THE CELEBRATION OF THEIR 64TH WED-

## DING ANNIVERSARY.

WHEREAS, the Alabama Legislature notes with pleasure the 64th wedding anniversary on March 6, 1984, of Mr. and Mrs. Lawrence Delaine of Cuba, Alabama; and

WHEREAS, Mr. Delaine and his young bride, Miss Joanna Ward, were united in holy marital vows on March 6, 1920, and have remained in the said holy state for the past 64 years; and

WHEREAS, they have lived their lives as one and, in devotion to each other, have remained steadfastly faithful to their marriage vows, setting an example for others; and

WHEREAS, Mr. and Mrs. Delaine, the parents of five boys and five girls, have five daughters and four sons remaining—they also have 31 grandchildren and 18 great grandchildren, most of whom gather with members of the family and friends to help Mr. and Mrs. Delaine celebrate this joyous occasion at their home in Cuba, Alabama, where they have resided since 1946; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with the family and many friends in congratulating this fine couple, Mr. and Mrs. Lawrence Delaine, and wish them many more happy years together.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to Mr. and Mrs. Delaine that they may know of our congratulations and sincere best wishes for every future happiness.

Approved March 29, 1984

Time: 2:15 P.M.

Act No. 84-126

H.J.R. 124—Reps. Hooper, McKee,  
Holmes,  
Buskey (John),  
Mikell, Starr

## HOUSE JOINT RESOLUTION

COMMENDING MONTGOMERY'S CLOVERDALE JUNIOR HIGH SCHOOL BASKETBALL TEAM, RUNNER-UP FOR THE STATE CHAMPIONSHIP.

WHEREAS, the Alabama Legislature most highly commends and extends heartiest congratulations to the Tigers of Montgomery's Cloverdale Junior High School on their outstanding 1983-84 basketball season; and

WHEREAS, under the talented direction and leadership of Head Coach Terry Posey and Assistant Coach Jim Nunnelee, the Cloverdale Tigers ended their regular season schedule with a fantastic 21-1 record, finishing 26-2, overall, following the post-season playoffs; and

WHEREAS, as county champions by virtue of victory over Carver Junior High, the Cloverdale cagers, wearing red and white, claimed both their area and regional crowns, beating Prattville and South Girard respectively, losing only in the finals to the state champions, Johnson Junior High of Huntsville; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend and congratulate Coaches Posey and Nunellee and their Cloverdale Tigers on their spectacular 1983-84 basketball season.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Athletic Director Ellie McKissick on behalf of the coaches, staff and team, with a copy also forwarded to Principal Glen Adams for appropriate display at Cloverdale Junior High School, Montgomery, Alabama.

Approved March 29, 1984

Time: 2:15 P.M.

Act No. 84-127

H.J.R. 127—Reps. Hooper, Seibels,  
Kvalheim, Bachus,  
Gaston, White (G),  
Beers

### HOUSE JOINT RESOLUTION

INVITING VICE PRESIDENT GEORGE BUSH TO ADDRESS A JOINT SESSION OF THE ALABAMA LEGISLATURE.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein extend a most cordial invitation to Vice President George Bush to address the Alabama Legislature at his earliest convenience, on which date and at a time to be set, the Legislature shall convene in joint session to hear Vice President Bush's remarks.

BE IT FURTHER RESOLVED, That the Clerk of the House is directed to forward a copy of this resolution to Vice President Bush, in invitation to address the Legislature and in hopeful anticipation of his acceptance.

Approved March 29, 1984

Time: 2:15 P.M.

Act No. 84-128

H.J.R. 109—Reps. White (F), Rice

### HOUSE JOINT RESOLUTION

#### URGING CONGRESS TO ADOPT SCHOOL PRAYER AMENDMENT.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we strongly urge the U.S. Congress to adopt the pending proposed constitutional amendment authorizing voluntary prayer in public schools.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to each member of the Alabama congressional delegation.

Approved March 29, 1984

Time: 2:15 P.M.

Act No. 84-129

H.J.R. 10—Rep. Ford

### HOUSE JOINT RESOLUTION

#### MEMORIALIZING GOVERNOR WALLACE TO REACTIVATE THE THIRD ALABAMA VOLUNTEER CAVALRY CORPS AS A UNIT OF ALABAMA'S NATIONAL GUARD.

WHEREAS, There is a great need in Alabama for a reawakening and open and active expression of patriotism and individual responsibility; and

WHEREAS, a very outstanding brigade in the Army of the Confederate States of America was composed largely of Alabamians, who had been originally organized as the Third Alabama Volunteer Cavalry; and

WHEREAS, this brigade under the able leadership of General Joseph Wheeler, showed themselves to be brave men and true patriots and soon became known as "Wheeler's Corps" and as such won undying honor for Alabama; and

WHEREAS, General Wheeler, for whom this Corps was named, was a graduate of West Point who served with distinction as a cavalry officer in the United States Army, both before the War of Secession and again during and after the Spanish American War, as

well as an officer in the Army of the Confederate States; and

WHEREAS, after General Wheeler's death, in memorial services held for him, he was declared by Northern and Southern survivors of the War of Secession, to have been the ideal cavalryman of all great wars, and it was then said that "his undying fame will live in history as the greatest cavalry leader of all time"; and

WHEREAS, the bravery, spirit and unflicking loyalty of the men of the Third Alabama Volunteer Cavalry were great factors contributing to General Wheeler's rapid rise on the military scale; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Legislature of Alabama hereby memorializes The Honorable George C. Wallace, Governor of Alabama, by executive order, to reactivate the historic Third Alabama Volunteer Cavalry, with headquarters in Gadsden, and to designate it "Wheeler's Corps."

BE IT FURTHER RESOLVED, That Governor Wallace is hereby memorialized also to authorize present day members of this glorious unit of Alabama citizen-soldiers to wear the uniform and accoutrements of the Confederate soldiers when drilling, holding ceremonies or representing the unit at social functions.

BE IT RESOLVED ALSO, That since private citizen members of this reactivated Third Volunteer Cavalry Corps will be wearing a regulation uniform formerly used by soldiers of the Confederacy, steadfastly dedicated to and widely acclaimed for their loyalty to the State of Alabama, the Legislature hereby charges all the officers and enlisted men of the reactivated Third Alabama Volunteer Cavalry to bear true allegiance to our State of Alabama, and like the general for whom the Corps is named also bear true allegiance to the United States of America. While dressed in the grey uniform of the Confederate Army, current members of the Wheeler Corps will be representing a noble heritage passed on by those Alabama men, who more than a century ago, fought for their beliefs and traditions as free men. Certainly the sight of the Third Alabama Cavalry, reactivated fully uniformed, will be a visible symbol of loyalty and will inspire the entire community wherever these "soldiers" appear.

BE IT FURTHER RESOLVED, That the reactivated Wheeler Corps, in full regalia, be called upon to perform honorable duties especially at historic functions and such other duties as may be designated by the Governor from time to time.

The Clerk of the House of Representatives is hereby directed to deliver a copy of this resolution to the Governor of the State of Alabama and a copy thereof to the Adjutant General of the State.

This Act became a law under Section 125 of the Constitution on April 4, 1984 without approval by the Governor.

Act No. 84-130

S. 54—Senators Mitchem, Little, Foshee, Strong, deGraffenried, Denton, Smith (B), Corbett, Dixon, Barron, Covington, Bedsole, Hand, Bailey, Bennett, Teague, Dial, Menton, Aldridge, Ellis, Smith (J), Langford, Cabaniss, Holmes, Cooley, Parsons, Hilliard, Pearson, Goodwin, and Amari

### AN ACT

To provide further for funding of legislative services and to establish procedures therefor.

WHEREAS, operational expenses and all other financial obligations of the Legislature are derived from the state's General and Special Educational Trust Funds and must therefore be budgeted in advance, as is the case with all state departments similarly funded; and

WHEREAS, the Legislature, however, and perhaps more often than any other department or agency, is required by law to respond to emergency situations which can neither be foreseen nor budgeted in advance; and

WHEREAS, most particularly in recent years, the Legislature, through no fault of its own, has been increasingly faced with situations of an emergency nature including but not limited to numerous unplanned extraordinary sessions and the subsequent costs thereof; and

WHEREAS, the Legislature, in order to meet such financial obligations, has therefore been forced to pass supplemental appropriation bills; this of course places demands upon both the General Fund and the Special Educational Trust Fund with the attendant risk of proration, a situation abhorrent to the citizenry of this state; and

WHEREAS, in a sincere effort to eliminate the on-going and ever-increasing problems relative to legislative funding, it is the intent of this Act to provide a funding formula that is both workable and responsible; now therefore,

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year 1984-1985, and every year thereafter, there is hereby appropriated from any funds available in the state treasury as determined by the Budget Officer for legislative services the amounts as prescribed herein. There is hereby appropriated a quarterly amount of \$1,700,000.00 for all legislative costs, including personnel, office equipment, data processing and any expenditures incidental thereto. In any quarter, whenever unexpended funds fall below a balance of two percent (2%) of the aforemen-



tioned quarterly appropriation, an additional sum of \$200,000.00 is hereby appropriated. Any monies which are unexpended or unencumbered at the end of each fiscal year shall revert to the funds from which the appropriations were made.

**Section 2.** The legislature will annually present its budget through the Clerk of the House of Representatives and the Secretary of the Senate. Said presentation shall include statements of previous expenditures and projected costs on forms as prescribed by the Finance Director and be made before the Interim Committee on Finances and Budgets.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 3, 1984

Time: 4:15 P.M.

Act No. 84-131

H. 13—Rep. Rogers

### AN ACT

To make certain legislative findings regarding horse racing and pari-mutuel wagering thereon in Class 1 municipalities (now defined by statute to be cities with a population of 300,000 inhabitants or more as certified by the 1970 federal decennial census); to define the particular terms used in the substantive provisions of this Act; to authorize the creation of a racing commission in any Class 1 municipality; to provide for a referendum of the voters of any Class 1 municipality on the question of whether this Act will become effective in such municipality; to provide that horse racing and pari-mutuel wagering thereon shall be lawful in any Class 1 municipality in which a racing commission shall be incorporated pursuant to the provisions of this Act; to provide for the designation or appointment and the terms of office of the members and officers of any such racing commission; to provide for and authorize the incorporation of any such racing commission upon the filing by the members thereof of an application with the Secretary of State; to specify the general powers and duties of any such racing commission, including the power to adopt rules and regulations governing diverse aspects of horse racing, the exposure of the public thereto, and the conduct of pari-mutuel wagering thereon; to provide for the issuance by any such racing commission of licenses for owners and operators of racing facilities; to prescribe the methods for applying for such licenses, the manner in which such applications are to be reviewed by any such racing commission, and the terms and conditions upon which such licenses shall be granted and held; to provide for the suspension or revocation of any such license; to provide for the issuance by any such racing commission of permits to companies and individuals engaged in certain activities related to horse racing; to prescribe the method for applying for such permits and the manner in which such applications are to be reviewed by any such racing commission; to provide for the suspension or revocation of any such permit; to authorize and provide rules for the conduct of pari-mutuel wagering on horse racing events; to specify the minimum proportionate amounts of the deposits to pari-mutuel pools which are to be distributed to the holders of winning pari-mutuel tickets; to provide for the payment

of license fees for pari-mutuel wagering by each licensed operator to the state and to the racing commission licensing such operator and to specify the methods for determining the amounts of such fees and the schedule on which such fees shall be payable; to authorize any such racing commission to make rules and regulations under which television or radio coverage of racing events held outside the state may be transmitted to racing facilities governed by such racing commission and made the subject of pari-mutuel wagering under the provisions of this Act; to authorize any such racing commission to make rules and regulations under which television or radio coverage of racing events held at racetracks under the jurisdiction of such commission may be transmitted for the entertainment of the public or for the purpose of pari-mutuel wagering at locations outside the state; to provide that a specified percentage of total pari-mutuel wagering revenues shall be used for purses to be paid to the owners of horses competing in races; to provide for the establishment by each racing commission of a special fund for the purpose of promoting the breeding, raising and racing of thoroughbred and standardbred horses in the state, to specify the source and amounts of moneys for such fund, to specify certain purposes for which the moneys in such fund shall be used, and to authorize such racing commission to make rules and regulations for the administration of such fund and the disbursement of moneys therefrom; to specify the purposes for which the net revenues of each racing commission remaining after the payment of its expenses are to be applied and to provide for the disbursement of such net revenues for such purposes; to prohibit certain activities related to racing events; to provide that certain prohibited activities constitute crimes and to specify the penalties therefor; in the event that a state racing commission shall be established pursuant to any act enacted before or after the effective date of this Act, to provide in such event that any municipal racing commission created under this Act and its licensees shall be exempt from the jurisdiction of such state racing commission and from all laws providing for or relating to such state racing commission for a period beginning with the effective date of this Act and continuing until the fifth anniversary of the date on which racing events shall first be conducted under the jurisdiction of such municipal racing commission; to provide that pari-mutuel wagering with respect to horse racing may not be conducted in any Class 1 municipality within the state unless approved at a referendum at which all of the qualified voters residing in the county or counties in which such municipality, or any part thereof, is located are permitted to cast votes; to provide that the provisions of this Act shall be severable; to provide that this Act shall govern in the event of a conflict between its provisions and existing laws; and to provide for such other matters as are necessary to authorize, regulate, license, administer and supervise horse racing and pari-mutuel wagering thereon in Class 1 municipalities.

*Be It Enacted by the Legislature of Alabama:*

**Section 1. Legislative Findings.** It is hereby found and declared as follows: the conduct within Class 1 municipalities in the State of horse racing events and pari-mutuel wagering thereon will generate additional revenues for governmental and charitable purposes, provide additional jobs for the residents of the State and benefit the businesses related to tourism and recreation within any such municipality and throughout the surrounding areas of the State; it is desirable to permit the qualified voters of any Class 1 municipality to determine through referendum whether horse racing and pari-mutuel wagering thereon will be permitted in such municipality; and for each Class 1 municipality in which horse racing is approved by the voters thereof, it is necessary and desirable to provide for the establishment of a racing commission to regulate horse racing and

pari-mutuel wagering thereon within such municipality and to administer and enforce the provisions of this Act.

**Section 2. Definitions and Use of Phrases.** (a) The following words and phrases used in this Act, and others evidently intended as the equivalent thereof, shall, unless the context clearly indicates otherwise, have the following respective meanings herein:

“Alabama-Bred”, when used with reference to a thoroughbred horse or a standardbred horse, means a horse which is registered in the registry designated and administered by a Commission in accordance with such rules concerning domicile and registration requirements as may be established by such Commission and which is either (i) foaled from a mare domiciled in the State during the seven-year period beginning with the effective date of this Act or (ii) sired by an Alabama Stallion and foaled from a mare domiciled in the State at any time after the expiration of such seven-year period.

“Alabama Stallion”, when used with reference to a thoroughbred stallion or a standardbred stallion, means a stallion which is standing in the State at the time he is bred to the dam of an Alabama-Bred horse, which is registered with a Commission, and which is alternatively (i) owned by a resident of the State and standing the entire stud season in the State, (ii) owned by a resident of another state but standing the entire stud season in the State and leased by a resident of the State for a term of not less than two years or (iii) owned jointly by a resident of the State together with a resident of another state and leased by a resident of the State for a term of not less than two years. For purposes of this definition, a resident of the State may be any one of the following: (1) a natural person whose principal residence is located in the State; (2) a natural person who does not maintain his or her principal residence in the State but who personally owns, singly or jointly with his or her spouse, real property located in the State that has an original cost to such person or a current fair market value of not less than \$100,000; or (3) a corporation or partnership which has its principal place of business in the State and more than fifty percent of the stock or other ownership interest in which is owned by natural persons described in clause (1) or (2) of this sentence. The Commission with which any Alabama Stallion may be registered shall have the power to prescribe rules and regulations governing the manner by which the qualifications of a resident shall be confirmed to such Commission for purposes of this definition.

“Breakage” means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of ten cents.

“Breeder” means the owner of a mare at the time such mare gives birth to an Alabama-Bred thoroughbred or standardbred foal.

**"Breeding Fund"** means a special fund established by a Commission pursuant to the provisions of Section 34 of this Act and any applicable rules and regulations of such Commission for the purpose of promoting the breeding, raising and racing of thoroughbred or standardbred horses in the State.

**"Breeding Fund Fee"** means a fee payable to a Commission by an Operator pursuant to Section 34 of this Act for deposit into the Breeding Fund established by such Commission.

**"Commission"** means any public corporation organized pursuant to the provisions of this Act.

**"Commission Wagering Fee"** means a license fee payable to a Commission by an Operator for a particular calendar year, the amount and payment schedule of which are to be determined in accordance with the provisions of Section 30 hereof.

**"Handle"**, when used with reference to any specified period of time, means the total amount deposited in all of the pari-mutuel pools originated by an Operator during such period of time.

**"Host County"** means any county in which a sponsoring Municipality is located. With respect to a Sponsoring Municipality located in more than one county, "Host County" means the county in which the largest number of residents of the Sponsoring Municipality reside, as determined by the most recent federal decennial census.

**"Host County House Delegation"** means, with respect to a Host County, the members of the House of Representatives of the Legislature of Alabama from those representative districts which are located entirely within such Host County.

**"Host County Senate Delegation"** means, with respect to a Host County, the members of the Senate of the Legislature of Alabama from those senatorial districts which are located entirely within such Host County.

**"Member"** means a member of a Commission.

**"Net Revenues"** means all fees (other than Breeding Fund Fees), commissions and other moneys received by a Commission and remaining after the payment of all expenses incurred in the administration of this Act. This term does not include any State Wagering Fees, which are required to be paid by an Operator directly to the State.

**"Operator"** means a corporation licensed by a Commission to conduct horse racing events and pari-mutuel wagering thereon in accordance with the provisions of this Act.

**"Owner"** means a corporation, partnership or other business en-

tity licensed by a Commission to own a racing facility in accordance with the provisions of this Act.

"Person", whether or not appearing as a capitalized term, means any natural person, corporation, partnership, joint venture, trust, government or governmental body, political subdivision or other legal entity as in the context may be possible or appropriate.

"Sponsoring Municipality" means any municipality for which a Commission shall be created in accordance with the provisions of this Act.

"Stallion Owner" means the owner of a stallion standing in the State at the time he was bred to the dam of an Alabama-Bred thoroughbred or standardbred horse.

"State" means the State of Alabama.

"State Racing Commission" means any department, agency or instrumentality of the State, whether or not constituting a corporate entity separate from the State, that may at any time, whether before or after the effective date of this Act, be created, organized or established for the purpose, among other purposes, of licensing, regulating or supervising horse racing and pari-mutuel wagering thereon.

"State Wagering Fee" means a license fee payable to the State by an Operator, the amount and payment schedule of which are to be determined in accordance with the provisions of Section 29 hereof.

(b) The words "herein", "hereby", "hereunder", "hereof" and other equivalent words refer to this Act as an entirety and not solely to the particular section or portion thereof in which any such word is used. The definitions set forth herein shall be deemed applicable whether the words defined are used in the singular or plural. Whenever used herein any pronoun or pronouns shall be deemed to include both singular and plural and to cover all genders.

**Section 3. Authorization of Commissions.** A Commission is authorized to be created in accordance with the provisions of this Act for each Class 1 municipality, as Class 1 municipality is defined in Code of Alabama 1975, § 11-40-12 or any successor provision of law. Any Commission created for any Sponsoring Municipality pursuant to the provisions of this Act shall be named "The \_\_\_\_\_ (the name of the Sponsoring Municipality shall be inserted in the blank) Racing Commission" and shall be a public corporation having a legal existence separate and apart from the State and any county, municipality or political subdivision thereof. A Commission shall be vested with the powers and duties specified in this Act and all other powers necessary and proper to enable it to execute fully

and effectively the purposes of this Act. Immediately upon the incorporation of a Commission in accordance with the provisions of this Act, horse racing and pari-mutuel wagering thereon conducted in the Sponsoring Municipality in accordance with the provisions of this Act shall be lawful, notwithstanding any other provision of law to the contrary.

Notwithstanding any provisions hereof which connect the State with the creation and control of a Commission, any Commission incorporated pursuant to the provisions of this Act shall not be deemed to be part of the State for any purpose, but shall be treated as a public corporation and body politic separate and apart from the State. Except for the State Wagering Fee, all fees, commissions and other moneys which a Commission shall be authorized by this Act to charge, levy or receive shall be deemed to be moneys belonging exclusively to such Commission, and no allocation or payment of such moneys authorized or mandated by this Act shall be considered to be an appropriation of moneys belonging to or controlled by the State.

Notwithstanding any provisions hereof which connect a Commission with its Sponsoring Municipality, the Host County or any other county or municipality [including, without limitation thereto, the provisions of Section 4 hereof regarding a referendum in the Sponsoring Municipality to approve the incorporation of a Commission and the provisions of Section 5 hereof providing for (i) the mayor or other chief executive officer of the Sponsoring Municipality to serve ex-officio as one Member of a Commission and (ii) the president or other designated presiding officer of the county commission of the Host County to serve ex-officio as one Member of a Commission], any commission incorporated pursuant to the provisions of this Act shall not be deemed to be a local agency or instrumentality of the Sponsoring Municipality or the Host County, but shall be treated as a public corporation and body politic having rights, powers and duties which, to the extent herein specified, shall be effective without reference to the rights, powers, duties and territories of the Sponsoring Municipality and the Host County. Except for the State Wagering Fee, all fees, commissions and other moneys which a Commission shall be authorized by this Act to charge, levy or receive shall be deemed to be moneys belonging exclusively to such Commission, and the Sponsoring Municipality and the Host County shall have no interest therein except to the limited extent expressly provided by this Act.

**Section 4.** Referendum to Approve Commission. The governing body of any Class 1 municipality shall call and provide for holding a referendum for the purpose of determining if a Commission shall be incorporated for such municipality pursuant to this

Act. The initial referendum shall be held not less than forty-five (45) days nor more than ninety (90) days after the effective date of this Act and shall be advertised, held, conducted and the results thereof canvassed and declared in the manner provided by law for advertising, holding, conducting and canvassing other municipal elections and as said governing body shall provide in the resolution or ordinance calling such election. The question to be voted on shall be stated on the ballots or voting machine tags substantially as follows:

“Do you favor the authorization of horse racing and pari-mutuel wagering thereon in the City of \_\_\_\_\_ (insert the name of the municipality) and the creation of a racing commission for said city to license, regulate and supervise horse racing and pari-mutuel wagering thereon as provided in Act No. \_\_\_\_ [insert act number] adopted at the \_\_\_\_\_ [insert session identification] Session of the Legislature of Alabama?”

If the majority of the votes cast in any referendum are “Yes”, this Act shall become operative with respect to the municipality conducting such referendum, and horse racing and pari-mutuel wagering thereon shall be legal in such municipality as and to the extent conducted in accordance with the provisions of this Act; if the majority of the votes cast in such election are “No”, this Act shall have no further effect with respect to such municipality, unless the governing body thereof should later call another referendum. One or more subsequent referenda may be called by the governing body of Class 1 municipality if the question submitted at the initial or any subsequent referendum fails to receive a majority of favorable votes; provided, however, that not more than one referendum may be called by any municipality in each calendar year. Once authorized and incorporated, a Commission may not be dissolved except pursuant to general act of the Legislature of Alabama applicable to such Commission. The results of any referendum conducted for a Class 1 municipality pursuant to this act shall be certified to the Secretary of State, within thirty (30) days after the election returns are canvassed, by the officer then authorized by law to certify proceedings taken by the election commission, board of canvassers or other body then required by law to canvass and declare the results of elections held in such municipality.

**Section 5. Members of Commission.** (a) Every Commission shall have five members, which shall constitute its governing body. All powers of a Commission shall be exercised by its Members or pursuant to their authorization. The mayor or other chief executive officer of the Sponsoring Municipality and the president or other designated presiding officer of the county commission of the Host County shall each serve as a Member ex-officio, and the service of

each such official as a Member shall begin and end concurrently with the beginning and ending of his or her tenure in such office. The other three Members shall be appointed in the manner hereinafter prescribed as soon as may be practicable after the certification to the Secretary of State of a favorable vote at a referendum called and held pursuant to Section 4 of this Act. The Lieutenant Governor of the State, the Host County House Delegation and the Host County Senate Delegation shall each appoint one Member; provided, however, that the provisions of this Act conferring upon the Lieutenant Governor of the State the power to appoint one Member of each Commission are hereby expressly declared to be severable from the other provisions of this Act, and if the provisions conferring such power upon the Lieutenant Governor shall be determined by any court of competent jurisdiction to be invalid because of any defect in the notice required to be published with respect to this Act by Sections 106 and 110 of the Constitution of Alabama, as amended, or to be invalid for any other reason, such determination shall not affect, impair or invalidate the remaining provisions of this Act, and in such case, the mayor or other chief executive officer of the Sponsoring Municipality shall have the right to appoint the Member of each Commission that, absent such determination, would have been appointed by the Lieutenant Governor, all subject to the same terms and conditions herein that would be applicable to an appointment made by the Lieutenant Governor. The appointments of Members by the Host County House Delegation and the Host County Senate Delegation shall be made at meetings of the members of the respective delegations held pursuant to the call of the mayor or other chief executive officer of the Sponsoring Municipality, who shall provide the members of each delegation with written notice of any such meeting at least ten (10) days prior to the date set therefor. All meetings of the Host County House Delegation or the Host County Senate Delegation called and held pursuant to this Act shall be open to the public. Any appointment of a Member by the Host County House Delegation or the Host County Senate Delegation must be approved by a majority of the members of such delegation voting in person at a public meeting called and held pursuant to this Act. Any meeting of the Host County House Delegation or the Host County Senate Delegation at which fewer than a majority of the members of such delegation are present, or at which no appointment of a Member is made because of a failure to obtain the approval of a majority of the members of such delegation, may be adjourned to a future time and place announced at such meeting; provided that, if either delegation fails to appoint a Member within thirty (30) days of the date of the first meeting called for the purpose of such appointment, the right of such delegation to appoint a Member shall terminate and such appointment shall be made as



soon thereafter as practicable by the mayor or other chief executive officer of the Sponsoring Municipality.

(b) The Member to be appointed by the Lieutenant Governor of the State shall be appointed for a term beginning immediately upon his appointment and ending at noon on July 1 in the third calendar year next following the calendar year in which the referendum authorizing the incorporation of the Commission shall be conducted; the Member to be appointed by the Host County House Delegation shall be appointed for a term beginning immediately upon his appointment and ending at noon on July 1 in the fourth calendar year next following the calendar year in which the referendum authorizing the incorporation of the Commission shall be conducted; the Member to be appointed by the Host County Senate Delegation shall be appointed for a term beginning immediately upon his appointment and ending at noon on July 1 in the fifth calendar year next following the calendar year in which the referendum authorizing the incorporation of the Commission shall be conducted. Thereafter, the term of office of each appointed Member shall be five years, commencing at noon on the July 1 on which the term of the immediate predecessor Member shall end.

(c) If at any time there shall be a vacancy amount the appointed Members of a Commission (i.e., those Members who do not serve ex-officio), a successor Member shall be appointed to serve for the unexpired term applicable to such vacancy. The appointment of each appointed Member (other than those initially appointed), whether for a full five-year term or to complete an unexpired term, shall be made by the officer or legislative delegation responsible for the appointment of the Member whose term shall have expired or is to expire or in whose position a vacancy otherwise exists and shall be made not earlier than thirty (30) days prior to the date on which such Member is to take office as such. If the term of any Member shall expire prior to the reappointment of such Member or prior to the appointment of his successor, such Member shall continue to serve until his successor is appointed, and if such Member is reappointed for a new term after the expiration of the immediately preceding term which he has been serving, his new term of office shall be deemed to have commenced at noon on the July 1 on which the immediately preceding term shall have expired. Members shall be eligible for reappointment without limit as to the number of terms previously served. In the event that any appointments are not made within sixty (60) days after the certification to the Secretary of State of a favorable vote at a referendum called and held pursuant to this Act (in the case of initial appointments), or within thirty (30) days of the end of a term or other vacancy, then a vacancy shall be filled or a successor Member appointed by a majority of the Members

holding appointments already made or serving as ex-officio Members. Appointments shall be evidenced by a written certificate executed by the appointing official, or, in the case of appointments made by a majority of the other Members, by a certificate signed by the Members making such appointment, or, in the case of appointments made by a legislative delegation, by the members of the delegation voting for such appointment or by a member of the delegation designated to serve as the secretary of the meeting at which such appointment is made and to report the results thereof to the Secretary of State. The certificates evidencing the appointment of Members of a Commission shall be addressed and delivered to the Secretary of State, who shall maintain the originals of such certificates as official records in his office.

(d) Each appointed Member of any Commission shall have been a resident of the Host County for a period of at least five years prior to his or her appointment and shall, at the time of his or her appointment and at all times during his or her term of office, be a resident of the Host County and a qualified elector of the State, and a failure by any appointed Member to remain so qualified during such term of office shall cause a vacancy of the office of such Member. No person serving as a member of the Legislature of the State, serving as a member of the governing body of any municipality, county or other political subdivision of the State, or holding a full-time office or position of employment with the United States of America, the State, any county or municipality in the State, or any instrumentality, agency or subdivision of any of the foregoing, shall be eligible for appointment as a Member of a Commission. Service by any person as a member, director, trustee or other participant in the management or administration of any governmental agency, board or commission, or public educational institution, or other public body of the United States of America, the State, or any county or municipality or other political subdivision shall not render such person ineligible for appointment as a Member of a Commission unless such service constitutes full-time employment. Each appointed Member shall be of good moral character and shall never have been convicted of a felony or other offense involving moral turpitude. Each appointed Member of a Commission shall make and submit to the appointing officer or legislative delegation responsible for his or her appointment an affidavit confirming his or her qualifications, as set forth in the preceding provisions of this subsection (d), to serve as a Member of a Commission, which affidavit shall be filed with the Secretary of State along with the aforesaid certificate evidencing such appointment. Any appointed Member of a Commission who in such affidavit intentionally makes a false statement of material fact or intentionally fails to disclose any information necessary to make any statement of material fact made therein not mis-

leading shall be guilty of perjury and shall be subject to prosecution and punishment therefor in the same manner as if he had committed perjury as a witness in open court.

(e) Any person who is an appointed Member of a Commission shall be deemed to vacate his or her office as such Member by (i) the acceptance of any office or employment which, had such person held such office or been so employed at the time of his or her appointment as a Member, would have rendered such person ineligible for appointment as a Member or (ii) the occurrence of any event or circumstance involving the character of such person which, had such event or circumstance occurred prior to the time of his or her appointment as a Member, would have precluded such appointment. Any appointed Member may be impeached and removed from office as a Member of a Commission in the same manner and on the same grounds provided in Section 175 of the Constitution of Alabama of 1901, or successor provision thereof, and the general laws of the State for impeachment and removal of the public officers subject to said Section 175 or successor provision thereof. The mayor or other chief executive officer of the Sponsoring Municipality and the president or other designated presiding officer of the county commission of the Host County may not be impeached and removed from office as a Member of a Commission apart from their impeachment and removal from the respective offices by virtue of which, ex-officio, they serve as Members.

**Section 6.** Incorporation of Commission. The five persons initially designated as Members of a Commission shall become a corporation with the power and authority provided in this Act by proceeding according to the provisions of this Act. To become a corporation, the persons so designated shall present to the Secretary of State an application signed by them which shall contain the following:

- (1) a statement that the applicants propose to incorporate a Commission pursuant to this Act;
- (2) the name and principal residence of each of the applicants;
- (3) the date on which each applicant who is not an ex-officio Member was appointed as a Member and the expiration date of the term for which he was appointed;
- (4) the term of office for each applicant who is an ex-officio Member;
- (5) the name of the proposed corporation, which shall be "The \_\_\_\_\_ [name of the Sponsoring Municipality] Racing Commission";

(6) the location of the principal office of the proposed corporation, which shall be in the Sponsoring Municipality; and

(7) any other matter relating to such Commission which the applicants may choose to insert and which is not inconsistent with this Act or the laws of the State.

The application shall be subscribed and sworn to by each of the applicants before an officer authorized by the laws of the State to take acknowledgements to deeds. The Secretary of State shall examine the application, and if the Secretary of State finds that it substantially complies with the requirements of this section, he shall receive, file and record it in an appropriate book of records in his office.

When the application has been made, filed and recorded as herein provided, the applicants shall constitute a corporation under the name stated in the application, without the necessity of any further action under any other laws of the State applicable to the creation of corporations, and the Secretary of State shall make and issue to the applicants a certificate of incorporation pursuant to this Act, under the Great Seal of the State, and shall record the certificate with the application. There shall be no fees paid to the Secretary of State for any work done in connection with the incorporation or dissolution of any Commission.

**Section 7. General Provisions Respecting Members of a Commission.** No Member shall vote on or participate in the discussion or consideration of any matter coming before a Commission in which he, his immediate family, or any business enterprise with which he is associated has any direct or indirect pecuniary interest; provided, however, that when any such matter is brought before a Commission, any Member having an interest therein which may be in conflict with his obligations as a Member shall immediately make a complete disclosure to such Commission of any direct or indirect pecuniary interest he may have in such matter prior to removing himself and withdrawing from the Commission's deliberations and vote on the matter presented. In furtherance, and not in limitation of the foregoing provision, no Member or employee of a Commission, and no spouse, child, parent, brother or sister of any such Member or employee, (i) shall have any financial interest, direct or indirect, in any horse racetrack or operation incidental thereto which is subject to the provisions of this Act, or in any entity which has submitted an application for a license under this Act, or in the operation of any wagering authorized under this Act or (ii) shall participate as owner of a horse or otherwise as a contestant in any race subject to the jurisdiction of a Commission or have any pecuniary interest in the purse or prize contested for in any such race. No ap-

pointed Member or officer of a Commission (e.g., any Member or officer of a Commission who does not serve as such by reason of his holding another office), no employee of a Commission, and no spouse, child, parent, brother or sister of any such appointed Member or officer or of any such employee, shall make, or cause to be made on his or her behalf, any contribution to any holder of any office of the State or any office of the Sponsoring Municipality or the Host County of such Commission or any contribution to any candidate for any such office.

The mayor or other chief executive officer of the Sponsoring Municipality and the president or other designated presiding officer of the county commission of the Host County shall perform the duties of Members of a Commission, ex-officio, without any compensation other than that to which they are respectively entitled as such municipal or county officers. Appointed Members of a Commission shall be entitled to such compensation for their services as the Commission shall from time to time provide by duly adopted resolution, provided that no appointed Member of a Commission shall receive more than \$100 for each day or part thereof spent in the performance of his duties. Each Member, whether appointed or serving ex-officio, shall be reimbursed for his or her reasonable expenses incurred in the performance of his or her duties as a Member of a Commission. The compensation and expenses of Members shall be paid out of the funds of a Commission in accordance with such rules as shall be from time to time adopted by such Commission. A majority of the Members of a Commission shall constitute a quorum for the transaction of business by such Commission, and, in the absence of a rule incorporated in the bylaws of a Commission that, in certain circumstances, may require the favorable vote of a designated percentage of all the Members of a Commission, decisions shall be made on the basis of a majority of the quorum then present and voting, with each Member to have a single vote. No vacancy in the membership of a Commission or the voluntary disqualification or abstention of any Member thereof shall impair the right of a quorum to exercise all of the powers and duties of the Commission.

**Section 8.** Officers of a Commission. The officers of a Commission shall consist of a chairman, vice chairman, executive secretary, treasurer and such other officers as the Commission shall deem necessary or appropriate. The chairman and vice chairman of a Commission shall be elected by the Commission from the membership thereof. The executive secretary shall be appointed as provided in Section 10 hereof. The principal financial officer of the Sponsoring Municipality of a Commission shall serve ex-officio as the treasurer of such Commission.

**Section 9.** Treasurer of a Commission; Investment of Funds

of a Commission. The treasurer of a Commission shall collect all the fees, commissions and other moneys provided for in this Act, and shall supervise, check and audit the operation of the pari-mutuel wagering pools and the conduct and distribution thereof. The principal financial officer of a sponsoring Municipality shall perform the duties of the treasurer of a Commission, ex-officio, without any compensation other than that to which he or she is entitled as the principal financial officer of such Sponsoring Municipality, but he or she shall be reimbursed for expenses actually incurred in the performance of his or her duties as treasurer of a Commission. All managerial, accounting and clerical personnel which the principal financial officer of a Sponsoring Municipality shall determine to be necessary to keep the books and records of a Commission created for such Sponsoring Municipality and to perform the audit and other financial functions for such Commission authorized or contemplated by this Act shall be employees of such sponsoring Municipality and shall perform their duties under the supervision of such principal financial officer in his capacity as ex-officio treasurer of such Commission; provided, however, that the number, qualifications and compensation of personnel employed by such sponsoring Municipality to perform all financial functions for such Commission shall be subject to the approval of such Commission, as well as to such other laws and regulations as may be applicable to such personnel as employees of such Sponsoring Municipality. Each Commission shall reimburse the Sponsoring Municipality for all costs and expenses incurred in the performance of all financial functions for such Commission, including a reasonable allowance for the time of the principal financial officer of such Sponsoring Municipality devoted to the business of such Commission as its ex-officio treasurer.

The funds of a Commission which its treasurer determines are not then needed to discharge its obligations or to make the disbursements provided for in Sections 34 and 36 hereof may be invested in such of the following investments as its treasurer may determine to be most advantageous or convenient: (i) any time deposit with, or any certificate of deposit issued by, or any acceptance by, any bank which is organized under the laws of the United States of America or any state thereof and deposits in which are insured, in whole or in part, by the Federal Deposit Insurance Corporation or any department, agency or instrumentality of the United States of America that may succeed to the functions of such corporation; (ii) any direct, general obligation of the United States of America; (iii) any obligation payment of the principal of and interest on which is unconditionally guaranteed by the United States of America; (iv) any direct, general obligation of, or any obligation payment of the principal of and interest on which is unconditionally guaranteed by, any agency or instrumentality of the United States of America (includ-

ing, without limitation, the Federal National Mortgage Association); and (v) any repurchase agreement or reverse repurchase agreement with any bank which is a member of the Federal Deposit Insurance Corporation (or any department, agency or instrumentality of the United States of America that may succeed to the functions of such corporation) or with any government bond dealer reporting to and trading with the Federal Reserve Bank of New York, provided that such agreement is secured by obligations or securities described in clauses (i), (ii), (iii) and (iv) of this sentence. Funds of a Commission not invested in accordance with the preceding sentence shall be deposited in a bank the principal office of which shall be located in the Sponsoring Municipality and the deposits of which shall be insured, in whole or in part, by the Federal Deposit Insurance Corporation or any department, agency or instrumentality of the United States of America that may succeed to the functions of such corporation.

**Section 10.** Powers and Duties of a Commission. A Commission shall have the powers and duties necessary to license, regulate and supervise horse racing and pari-mutuel betting incidental thereto, including, without limiting the generality of the foregoing, the powers and duties set forth hereinafter in this section or in other sections of this Act.

(1) A Commission shall have succession in perpetuity, subject only to the provisions of this Act as it may be amended from time to time.

(2) A Commission shall have the power to sue and be sued in its own name in civil suits and actions and to defend suits against it.

(3) A Commission shall have the power to adopt and make use of an official seal and to alter the same at pleasure.

(4) A Commission shall have the power to adopt, alter and repeal bylaws, regulations and rules, not inconsistent with the provisions of this Act, for the regulation and conduct of its affairs and business.

(5) A Commission shall have the power (a) to borrow money from any source, including the sponsoring Municipality (which is hereby authorized to lend such money to its related Commission), for the purpose of paying expenses that may be reasonably incurred in carrying out its duties in advance of the receipt of fees, commissions and other moneys payable to it under the provisions of this Act, and (b) to pledge as security for the payment of the principal of and interest on the money so borrowed all or any of such fees, commissions and other moneys, which pledge shall be prior to any and all claims to such fees, commissions and other moneys from any intended recipients of Breeding Fund Fees pursuant to Section 34

hereof or from any intended recipients of the Net Revenues pursuant to Section 36 hereof; provided, however, that no Commission shall be entitled to borrow, or to allow to remain outstanding at any time, a principal amount in excess of (i) \$500,000 or (ii) the amount which the Commission estimates will be its total operating expenses for the next three years, whichever of such amounts is the lesser.

(6) A Commission shall establish and maintain a general business office within its Sponsoring Municipality for the transaction of its business at a place to be determined by such Commission. A Commission shall meet at such times and places within its sponsoring Municipality as it shall determine.

(7) Each Commission shall be vested with supervision and authority over all horse races licensed by it under the provisions of this Act and over all persons conducting, participating in or attending such races. A Commission shall employ such persons to be present at race meetings as are necessary to ensure that they are conducted with order and the highest degree of integrity, and it may require that an Operator pay such salaries to such of the Commission's employees as it shall prescribe. A Commission may eject or exclude from any racetrack or from any part thereof any person, whether or not he possesses a permit, whose conduct or reputation is such that his presence may, in the opinion of the Commission, reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of horse racing.

(8) A Commission and its representatives and employees shall visit, investigate and have free access to the office, track, facilities or other place of business of an Operator, and may compel the production of any of an Operator's books, documents, records or memoranda for the purpose of satisfying itself that such Operator is truthfully complying with the provisions of this Act and the Commission's rules and regulations. A Commission shall require that there be delivered to it an annual balance sheet and income statement of each Operator subject to its jurisdiction and also a copy of any management, concession or other contract to which any such Operator is a party.

(9) A Commission shall adopt and publish reasonable rules, regulations and conditions under which all types of racing subject to its jurisdiction, and pari-mutuel wagering, shall be conducted in its Sponsoring Municipality, and such other reasonable regulations as it deems necessary and appropriate to carry out the purposes and provisions of this Act. Such rules and regulations may include reasonable penalties for violations which shall be in the nature of civil and not criminal penalties.

(10) A Commission may issue subpoenas for the attendance of



witnesses before it, administer oaths and compel production of records or other documents and testimony of such witnesses whenever such Commission finds it necessary and appropriate so to do in order to carry out its duties under this Act or to enforce the provisions of this Act or rules or regulations adopted pursuant hereto.

(11) A Commission shall have the power to compel an Owner or Operator to file with such Commission such information, including, without limitation, financial statements and information relative to stockholders and all others with any pecuniary interest in such licensee as shall appear to such Commission to be necessary for the performance of its duties hereunder, and may prescribe the manner in which books and records of an Owner or Operator shall be kept.

(12) A Commission shall have the power to enter into arrangements with any governmental or nongovernmental agency or association for the purposes of exchanging information, establishing security forces or performing any other act better to ensure the proper conduct of horse racing.

(13) A Commission shall have the power to demand and obtain for its files the fingerprints of the following persons, which fingerprints may be taken by a representative of a law-enforcement agency of the county, state or federal government, by inspectors of such Commission or by such qualified private security agency as such Commission may designate: (i) all Members, officers and employees of such Commission; (ii) every person who is an officer, director, partner or other principal of a corporation, partnership or other entity which holds a license as an Owner or Operator, and every employee of such a licensee whose duties relate to the horse racing business in the Sponsoring Municipality; (iii) all owners of horses, trainers, jockeys, apprentices, stable employees, managers, agents, blacksmiths, veterinarians and other persons who actively participate in the racing activities of any Operator; and (iv) all other persons whose relationship to horse racing and wagering activities under the jurisdiction of such Commission is of such nature that such Commission, in the exercise of reasonable judgment, believes that it would be prudent to obtain the fingerprints of such persons..

(14) A Commission shall report annually to the governing body of its Sponsoring Municipality and to such state and federal authorities as shall be required by law.

(15) All books, records, maps, documents and papers of a Commission, including those filed with such Commission as well as those prepared by or for it, shall at all times be open for the personal inspection of any officer of the State, the Sponsoring Municipality or the Host County or any official investigative body or com-

mittee of any thereof, and no person having charge or custody thereof shall refuse this right to any officer or investigative body or committee, and it shall be the express duty of such person to assist such officer or committee in locating records or information. If any Member of a Commission violates the provisions of this paragraph, he shall be subject to removal from office.

(16) Subject to the provisions of Section 11 of this Act, a Commission shall appoint an executive secretary and such other employees as it deems essential to perform its duties under this Act. Such employees shall possess such authority and perform such duties as the Commission shall prescribe or delegate to them. Such employees may include stewards, chemists, veterinarians, inspectors, accountants, guards, and such other employees deemed by the Commission to be necessary for the supervision and the proper conduct of the highest standard of horse racing. Such employees shall be compensated as provided by the Commission.

(17) The executive secretary of a Commission, in addition to any other duties prescribed by such Commission, shall keep a true and full record of all proceedings of such Commission and preserve at such Commission's general office all books, documents and papers of such Commission.

(18) A Commission shall have the authority to employ legal counsel of its choice to advise such Commission and represent it in all proceedings. The compensation of such counsel shall be paid out of funds of such Commission.

**Section 11. Qualifications of Commission Employees.** Each appointed officer and each employee of a Commission shall be of good moral character and shall never have been convicted of a felony or other offense involving moral turpitude. As a condition of employment by a Commission, each employee shall make and submit to such Commission an affidavit confirming his or her qualifications, as set forth in the preceding sentence, to be an employee of such Commission, which affidavit shall constitute a part of the permanent personnel records of such Commission. Any employee of a Commission who in such affidavit intentionally makes a false statement of material fact or intentionally fails to disclose any information necessary to make any statement of material fact made therein not misleading shall be guilty of perjury and shall be subject to prosecution and punishment therefor in the same manner as if he had committed perjury as a witness in open court.

**Section 12. Review of Commission Action.** Any person aggrieved by a refusal of a Commission to issue any license or permit, or suspension or revocation of a license or permit, imposition of a fine, or any other action of the Commission, may, within thirty (30)

days of such action, appeal to the circuit court of the Host County. If such court finds that the action of such Commission was arbitrary, it shall order the issuance or reinstatement of such license or permit, abatement of such fine or such other action as it deems appropriate. The decision of such court shall be subject to appeal as in other cases at law.

**Section 13. Commission May Obtain Injunctions.** Whenever it appears to a Commission that any person has been violating or may violate any provision of this Act or any reasonable rule or regulation or final decision of such Commission, it may apply to the circuit court of the Host County for an injunction against such person. The order granting or refusing such injunction shall be subject to appeal as in other cases in equity.

**Section 14. Licenses Required for Owners and Operators.** No person shall construct or establish a horse racetrack where race meetings are to be held and pari-mutuel wagering permitted, or own any such track or racing facilities in the Sponsoring Municipality, unless he has obtained an owner's license issue by a Commission in accordance with the provisions of this Act, which license when granted shall authorize the holder thereof to construct, establish and own in the Sponsoring Municipality a horse racetrack where race meetings are held and pari-mutuel wagering permitted in compliance with this Act.

No person shall operate pari-mutuel wagering or conduct any race meeting at which wagering is permitted with his knowledge or acquiescence in the Sponsoring Municipality unless he has obtained an operator's license under the provisions of this Act, which license when granted shall authorize the holder thereof to operate pari-mutuel wagering or conduct a race meeting at which pari-mutuel wagering is permitted in the Sponsoring Municipality in compliance with this Act.

No license issued under the provisions of this Act shall be transferable without the approval of the Commission which issued such license, such approval to be given or withheld under rules and regulations adopted by such Commission.

**Section 15. Application for Owner's License.** Any person desiring to construct or own a racetrack at which pari-mutuel wagering is permitted shall file with the appropriate Commission an application for an owner's license. Such application shall be filed at the time and place prescribed by such Commission and shall be in such form and contain such information as may be prescribed by such Commission, including the following:

- (1) the name and address of such person; if a corporation, the

state of its incorporation and the full name and address of each officer and director thereof; if a foreign corporation, whether it is qualified to do business in the State; and if a partnership or joint venture, the name and address of each general partner thereof;

(2) the name, and every address for the period of five years immediately preceding the date of such application, of each stockholder or member of such corporation, or each general partner of such partnership or joint venture, and of each person who has contracted for a pecuniary interest in the applicant or the facilities at which such race meeting or pari-mutuel wagering will be conducted, whether such interest be an ownership or a security interest, and the nature and value of such interest, and the name and address of each person who has agreed to lend money to the applicant; provided that if the applicant proposes to arrange further financing, subsequent to the award of an owner's license, through a sale of stock, partnership interests or other equity interests, the issuance of debt securities, the entering into of financing leases or otherwise borrowing money, then, in such case, such Commission may grant an owner's license which sets forth conditions to be met in arranging such further financing or which reserves to such Commission the right to approve any or all aspects of such further financing;

(3) such information as such Commission deems appropriate regarding the character and responsibility of the applicant and the members, partners, stockholders, officers and directors of the applicant;

(4) the location and description of the racetrack, place or enclosure where such applicant proposes to hold race meetings; provided that such Commission may require such information about the facilities and location of the track, including preliminary architectural plans, as it deems necessary and appropriate to determine whether they comply with the minimum standards provided in this Act, and whether the conduct of race meetings at such location would be in the best interests of the people of the State;

(5) such information relating to the financial responsibility of the applicant as such Commission deems appropriate;

(6) if any of the facilities necessary for the conduct of racing or pari-mutuel wagering are to be leased, the terms of such lease; and

(7) any other information which such Commission in its discretion deems appropriate.

Any application filed hereunder shall be verified by the oath or affirmation of an officer of the applicant, and shall be accompanied by a nonrefundable fee of \$15,000.

**Section 16. Review of Application for Owner's License.** A Commission shall promptly consider any application for an owner's license submitted to it and shall grant or deny such license based on all information before it, including any investigations it deems appropriate. A Commission shall deny a license to any applicant unless it finds as follows:

(1) that each natural person having an ownership interest in the applicant, either directly or indirectly, shall have been a resident of the State continuously for a period of five years next preceding the date of the application in question; and

(2) that the applicant's facilities will meet the following minimum standards: (a) that the facilities will provide a track racing surface of at least one mile; (b) that the facilities will be appropriate for the conduct of year-round racing and night racing; and (c) that the facilities will be located within the corporate limits of the Sponsoring Municipality or will be annexed thereto prior to the commencement of racing.

For purposes of clause (1) of the next preceding sentence of this section, a resident of the State shall be a natural person who during the period in question had such continuing presence in the State as would have satisfied the residency requirements for such person to be and remain a registered voter in the State during such period.

The provisions of this section which permit an owner's license to be granted to an Owner only if each natural person having an ownership interest in such Owner has been a resident of the State continuously for the preceding five years shall not be construed (A) to impair the foreclosure rights of any mortgagee holding a mortgage on the racing facilities of such Owner securing debt incurred to finance the costs of constructing or purchasing such racing facilities or (B) to impair the rights of any mortgagee holding such a mortgage, or the rights of any other person, corporation or other legal entity to which such racing facilities may be sold in foreclosure, to take and hold title to such racing facilities, to lease or sell the same, and to apply for and receive an owner's license therefor from the Commission upon compliance with all other applicable provisions of this Act, irrespective of whether the aforesaid condition of five years' residence in the State shall be satisfied by each individual having an ownership interest in such mortgagee or an ownership interest in a corporation or other legal entity to which such racing facilities shall be sold, as the case may be.

A Commission shall deny a license to an applicant if it finds that for any reason the issuance of a license to such applicant would not be in the interests of the people of the Sponsoring Municipality, or that the applicant, or any officer, general partner or director of

the applicant:

(i) has knowingly made a false statement of a material fact in the application or has deliberately failed to disclose any information called for in the application;

(ii) is or has been guilty of any corrupt or fraudulent act, practice or conduct in connection with any horse race meeting in the State or any other state;

(iii) has had a license or permit to hold or conduct a horse race meeting denied for just cause, suspended or revoked in any other state or country; or

(iv) is not qualified to do business in the State, or is not subject to the jurisdiction of the courts of the State.

**Section 17. Terms of Owner's License.** An owner's license issued under this Act shall be for a period of twenty (20) years, but shall be reviewed annually. A Commission issuing an owner's license shall state therein the person to whom such license is issued, the duration of such license, the location of the proposed racetrack, and such other conditions of the license and related information as such Commission shall deem proper. It shall be the policy of each Commission to permit widespread ownership of stock or limited partnership interests in a corporation or partnership holding an owner's license and owning a racetrack facility.

While any owner's license or licenses theretofore issued by a Commission shall remain in effect, such Commission shall not issue (i) any other owner's license with respect to the racetrack covered by the owner's license or licenses already in effect or (ii) any other owner's license covering any other racetrack to be located in the Sponsoring Municipality without, in either case, the duly authorized consent of the Owner or Owners holding all owner's licenses already in effect, which consent shall be obtained in writing prior to the issuance of any such other owner's license. Any provisions of this Act or any other law to the contrary notwithstanding, a Commission may, at the time of the issuance of an owner's license to an Owner or at any time thereafter, enter into a contract with such Owner establishing restrictive conditions under which such Commission may license racetracks that would compete with the racetrack covered by the license of such Owner, which conditions may, in the discretion of such Commission, preclude the licensing of any competing racetracks while such Owner's license shall remain in effect. The provisions of any such contract between a Commission and an Owner shall be deemed to be a part of the terms and conditions of the owner's license granted to such Owner. Without in any way limiting the nature of the consideration that might be given by an Owner to make

such contract binding, the obligations (including any future obligations) of any Operator using the racetrack covered by such Owner's license to pay the State Wagering Fee and the Commission Wagering Fee, together with the economic benefits to be derived by the State and such Commission and its Sponsoring Municipality from the establishment and continued operation of a racetrack, shall be deemed sufficient consideration to make such contract binding upon such Commission and any State Racing Commission. Any such contract between a Commission and an Owner shall be binding upon such Commission and any State Racing Commission at any time exercising jurisdiction over such Commission or such Owner and shall not be impaired by any subsequent action of such Commission or such State Racing Commission or by any act of the Legislature of Alabama which, through the authorization of another licensing entity or by any other means, would permit or encourage the establishment and operation of a competing racetrack in contravention of such contract.

A Commission may require a bond with surety acceptable to it in an amount determined by it to be sufficient to cover the maximum indebtedness anticipated to be incurred by the licensee to such Commission in any year. The amount of such bond may be adjusted from time to time as such Commission may require.

Each Commission may require the licensee to pay such Commission a license fee of \$2,000 per month for a period beginning six months from the date of issuance of the owner's license to the date of the beginning of operation of the related racetrack. The license fee shall be used by the Commission for operating expenses prior to the beginning of operation of the racetrack.

**Section 18.** Application for Operator's License. Any corporation desiring to hold race meetings at which pari-mutuel wagering is permitted shall file with the appropriate Commission an application for an operator's license. Such application may be made in conjunction with an application for an owner's license. It shall be filed at the time and place prescribed by the Commission and shall contain such information as prescribed by the Commission, including all information required for an owner's license under this Act. Any application for an operator's license filed hereunder shall be verified by the oath or affirmation of an officer of the applicant and shall be accompanied by a nonrefundable fee of \$10,000.

**Section 19.** Review of Application for Operator's License. A Commission shall promptly consider any application for an operator's license submitted to it and shall grant or deny such license based on all information before it, including any investigation it deems appropriate. A Commission shall deny a license to any appli-

cant unless it finds as follows:

(1) that such applicant is a corporation organized under Title 10 of the Code of Alabama 1975, or comparable law or laws of another state, and qualified to do business in the State;

(2) if the corporation is a stock corporation, that no one person owns more than thirty percent (30%) in voting rights or value of the stock of such corporation, and that no "family group" (which shall mean, for the purposes of this clause (2), any person and his or her spouse, parents, brothers and sisters) owns more than fifty percent (50%) in voting rights or value of the stock of such corporation; if the corporation is a nonstock corporation, that there are at least ten members, and that no more than twenty percent (20%) of the membership belongs to any family group;

(3) if the corporation is a stock corporation, that one hundred percent (100%) in voting rights and value of such corporation is owned directly or indirectly (through ownership of corporate stock, partnership interests or beneficial interests in one or more trusts or estates) by natural persons who have been residents of the State continuously for a period of five years next preceding the date of the application in question; if the corporation is a nonstock corporation, that members of such corporation possessing one hundred percent (100%) of the voting rights are natural persons who have been residents of the State for a period of five years next preceding the date of the application in question;

(4) that the members of the board of directors of such corporation, whether the same shall be a stock or a nonstock corporation, are individuals who have been residents of the State for a period of five years next preceding the date of the application in question;

(5) that the applicant's articles or certificate of incorporation or other corporate documents provide that it may, on vote of a majority of the stockholders or members, purchase at fair market value the entire stock or interest of any stockholder, or require the resignation of any member, who is or becomes unqualified for such position under this Act;

(6) that the applicant would be qualified, under the provisions of this Act, for a license to own the racetrack facilities at which it desires to hold a race meeting;

(7) that the applicant shall have made, or shall have committed to make, arrangements satisfactory to such Commission for the detection and prosecution of any corrupt or fraudulent act, practice, or conduct in connection with any race meeting, including utilization of the services of a protective agency acceptable to such Commission; and



(8) that the applicant shall have obtained and committed to maintain membership in such racing associations (as, for example, the Thoroughbred Racing Association or the United States Harness Association) as such Commission finds necessary or desirable to assist an Operator to operate race meetings.

For purposes of clauses (3) and (4) of the next preceding sentence of this section, a resident of the State shall be a natural person who during the period in question had such continuing presence in the State as would have satisfied the residency requirements for such person to be and remain a registered voter in the State during such period.

**Section 20.** Terms of Operator's License. An operator's license issued under this Act shall be for a period of twenty (20) years, but shall be reviewed annually. Any such license issued under this Act shall permit the holder thereof to hold and conduct one or more race meetings each year at the racetrack to which such license shall be applicable. Races may be conducted six days or nights a week throughout the year, but not on Sunday.

A Commission issuing an operator's license shall state therein the corporation to which such license is issued, the location of the racetrack where meetings are to be conducted, the period during which such license shall be in effect, and such other conditions of the license and related information as such Commission shall deem proper.

While any operator's license or licenses theretofore issued by a Commission shall remain in effect, such Commission shall not issue any other operator's license with respect to any racing events of the kind covered by the operator's license or licenses already in effect without the duly authorized consent of the Operator or Operators holding all operator's licenses already in effect, which consent shall be obtained in writing prior to the issuance of any such other operator's license. Any provisions of this Act or any other law to the contrary notwithstanding, a Commission may, at the time of the issuance of an operator's license to an Operator or at any time thereafter, enter into a contract with such Operator establishing restrictive conditions under which such Commission may license the conduct of racing events that would compete with the racing events or activities covered by the license of such Operator, which conditions may, in the discretion of such Commission, preclude the licensing of any competing racing events or activities while such Operator's license shall remain in effect. The provisions of any such contract between a Commission and an Operator shall be deemed to be a part of the terms and conditions of the operator's license granted to such Operator. Without in any way limiting the nature of

the consideration that may be given by an Operator to make such contract binding, the obligations (including any future obligations) of any Operator to pay the State Wagering Fee and the Commission Wagering Fee, together with the other economic benefits to be derived by the State and by such Commission and its Sponsoring Municipality from the conduct of horse racing and pari-mutuel wagering thereon, shall be deemed sufficient consideration to make such contract binding upon such Commission and any State Racing Commission. Any such contract between a Commission and an Operator shall be binding upon such Commission and any State Racing Commission at any time exercising jurisdiction over such Commission or such Operator and shall not be impaired by any subsequent action of such Commission or such State Racing Commission or by any act of the Legislature of Alabama which, through the authorization of another licensing entity or by any other means, would permit or encourage the conduct of racing events or activities by persons other than such Operator in contravention of such contract.

A Commission issuing an operator's license shall require a bond with surety acceptable to it, and in an amount determined by it to be sufficient to cover the maximum indebtedness anticipated to be incurred by the holder of such license to such Commission in any year. The amount of such bond may be adjusted from time to time as such Commission may require.

**Section 21.** Suspension or Revocation of License. A Commission may suspend or revoke any license or fine the holder thereof not to exceed \$5,000 after hearing with fifteen (15) days' notice in any case where it has reason to believe that any regulation of the Commission has not been complied with or has been violated. Annually, each Commission shall review the performance of each licensee for compliance with the provisions of this Act and the rules and regulations of such Commission. Deliberations of a Commission under this section may be conducted in executive session, unless otherwise requested by the licensee. If any such license is suspended or revoked, the Commission shall state its reason for doing so, which shall be entered of record. Such action shall be final unless appealed in accordance with the provisions of this Act.

**Section 22.** Application to Acquire Interest in Operator. Any person desiring to acquire stock in, or become a member of, a corporation which holds an operator's license hereunder shall apply to the Commission which issued such license on a form prescribed by it for approval of such acquisition or membership; provided, however, that no stock in any stock corporation holding an operator's license may be acquired or transferred pursuant to the provisions of this section unless all the natural persons who will ultimately own, directly or indirectly, all the voting rights and value

represented by such stock shall have been residents of the State (as "resident of the State" is defined in Section 19 hereof) continuously for a period of five years next preceding the date on which such stock is to be acquired or transferred; provided further that no person shall become a member of any nonstock corporation holding an operator's license unless such person is a natural person who shall have been a resident of the State (as "resident of the State" is defined in Section 19 hereof) continuously for a period of five years next preceding the date on which such person is to become a member of such corporation. The Commission shall consider such application forthwith, and may, if it finds it necessary, demand additional information concerning the proposed acquirer or transferee of stock or the proposed member in a nonstock corporation, as the case may be. If in the judgment of the Commission the acquisition or transfer of stock or membership in a corporation holding an operator's license would be detrimental to the public interest, to the honesty and integrity of racing, or to the reputation of racing, the application shall be denied. If the application is not denied within sixty (60) days, it shall be deemed approved. It shall be the policy of each Commission to favor the widespread ownership of stock in Operators by residents of the State.

**Section 23.** Permits Required for Certain Individuals and Companies. No person, firm, corporation or partnership shall participate in any horse racing subject to the jurisdiction of a Commission or in the conduct of any racing event or pari-mutuel wagering thereon, whether as a horse owner, trainer, jockey, exercise boy, groom, stable foreman, valet, veterinarian, agent, pari-mutuel employee, concessionaire or employee thereof, or track employee, or enter the track enclosure in any capacity other than as a spectator, unless such person or the firm, corporation or partnership employing such person possesses a permit therefor from the appropriate Commission and complies with the provisions of this Act and all reasonable rules and regulations of such Commission. No permit issued under this section shall be transferable.

The provisions of this section which require a concessionaire to obtain a permit from the appropriate Commission in order to operate a business selling food, beverages, souvenirs or other merchandise to persons attending racing events shall not be construed to permit any Commission to charge a concessionaire any license or permit fees measured by its gross revenues or to derive any economic benefit from the operations of such concessionaires other than the permit fees authorized by Section 24 of this Act, it being expressly provided that the Owner and the Operators for each racing facility shall have the exclusive rights (as they may by contract allocate such rights among themselves) to determine the business condi-

tions under which concessionaires shall operate at racing facilities under the jurisdiction of any Commission and to retain all moneys (except for the Commission's permit fee as aforesaid) which any concessionaire is willing to pay for the privilege of conducting business at such racing facilities.

**Section 24. Application for Permit.** Any person, firm, corporation or partnership desiring to obtain a permit as required by this Act shall make application therefor on a form prescribed by the appropriate Commission. Each individual applicant and each principal of any firm, chief executive officer of any corporation and managing partner of any partnership applying for a permit for such firm, corporation or partnership, as the case may be, shall be photographed and fingerprinted and shall supply such information as such Commission may require. All information contained in, or submitted in support of, any application for a permit shall be confirmed by an affidavit of the person or persons making such application, whether such application shall be made on behalf of such person or persons or on behalf of a firm, corporation or partnership. Any application for a permit made by an individual who seeks to work at a racing facility under the jurisdiction of a Commission and any application for a permit made by a firm, corporation or partnership that seeks to provide services or sell merchandise at such racing facility, as the case may be, shall include a statement as to whether such individual, or any owner, principal, officer, director or partner of such firm, corporation or partnership, or any employee of such firm, corporation or partnership who will actually work at such racing facility, has ever been convicted of a felony or other offense involving moral turpitude. Any firm, corporation or partnership which has previously received an effective permit from a Commission to provide services or sell merchandise at a racing facility shall, as a condition of maintaining such permit, file with such Commission supplemental information (including the statement described in the preceding sentence) concerning any new or additional owners, principals, officers, directors or partners of such firm, corporation or partnership, as the case may be, or any new or additional employees thereof who will actually work at such racing facility.

A Commission shall be entitled to charge fees for permits according to such schedule as it shall adopt from time to time, and in addition to the fee that it may charge a firm, corporation or partnership having employees at a racing facility under its jurisdiction, it may charge a separate fee for each individual employee of such firm, corporation or partnership working at such racing facility; provided, however, that (i) the permit fee for any one firm, corporation or partnership shall not exceed \$1,000 in any period of one year and (ii) the permit fee for any individual shall not exceed \$50 in any

period of one year, regardless of whether such individual is self-employed or is employed by a firm, corporation or partnership also paying a permit fee.

**Section 25.** Review of Applications for Permits. A Commission shall promptly consider any application for a permit submitted to it and shall issue or deny such permit based on the information in the application and all other information before it, including any investigation it deems appropriate. If an application for a permit is approved, the Commission approving such application shall issue a permit which shall contain such information as such Commission deems appropriate. Such permit shall be valid for one year.

A Commission shall deny any such application and refuse to issue a permit, which denial shall be final unless an appeal is taken under the provisions of this Act, if it finds that the issuance of such permit to the applicant therefor would not be in the interest of the applicant, the people of the Sponsoring Municipality or the horse racing industry in the Sponsoring Municipality, or that the applicant:

(1) has knowingly made a false statement of a material fact in the application or has deliberately failed to disclose any information called for by the application;

(2) is or has been guilty of any corrupt or fraudulent practice or conduct in connection with any horse racing activity in the State or any other state;

(3) has failed to comply with the provisions of this Act or the reasonable rules and regulations of the Commission;

(4) has had a permit to engage in an activity related to horse racing denied for just cause, suspended or revoked in any other state, and such denial, suspension or revocation is still in effect; or

(5) is unqualified to perform the duties required for the permit sought.

**Section 26.** Suspension or Revocation of Permit. A Commission may suspend or revoke a permit issued under this Act or fine the holder of such permit not to exceed \$1,000, after hearing with fifteen (15) days' notice to such holder, in any case where it has reason to believe that any provision of this Act, or any reasonable rule or regulation of the Commission, has not been complied with or has been violated. The Commission may revoke such permit, after such hearing, if it finds that facts not known by it at the time it considered the application for such permit indicate that such permit should not have been issued. Deliberations of a Commission concerning the suspension or revocation of a permit may be conducted

in executive session unless otherwise requested by the holder of such permit. If any permit is suspended or revoked, the Commission shall state its reasons for so doing and shall enter the same in the permanent records of its proceedings. The suspension or revocation of a permit shall be final unless an appeal is taken in accordance with the provisions of this Act.

**Section 27.** License Required for Stewards; Appointment of Stewards for Race Meetings. Any person desiring to act as a steward for any race meeting conducted pursuant to this Act must obtain a license from the Commission having jurisdiction over such race meeting. Each Commission shall require each applicant for a steward's license to pass one or more examinations on matters relating to the duties of stewards. Such examinations shall be prepared and administered in accordance with rules and regulations to be adopted by each Commission. Any Commission may establish other requirements, in addition to successful completion of such examinations, which must be met by any applicant in order to obtain a steward's license, including, without limitation, payment of reasonable license fees. Any steward's license issued pursuant to this Act shall have a term not exceeding two years, provided that the term of any such license may be extended or renewed at the option of the appropriate Commission.

Three licensed stewards shall be appointed to supervise each race meeting conducted pursuant to this Act. Two of such stewards shall be appointed by the Commission governing such race meeting and one shall be appointed by the Operator conducting such race meeting. Such stewards shall exercise such powers and perform such duties at each race meeting as may be prescribed by the rules and regulations of the governing Commission.

**Section 28.** General Provisions Respecting Pari-Mutuel Wagering. Pari-mutuel wagering conducted by an Operator shall be conducted in accordance with the provisions of this section. An Operator shall provide a place or places at the racetrack operated by it at which such Operator shall conduct a pari-mutuel system of wagering by its patrons on the results of horse races held at such racetrack. Such place or places shall be provided with the electronic or mechanical equipment necessary to issue pari-mutuel tickets, as well as the electronic or mechanical equipment necessary to record the wagering, compute the odds, and determine the awards to winning bettors, all in an accurate and speedy manner. All such equipment shall be approved by the Commission licensing such Operator before being used, but such Commission shall not require the installation of any particular make of such equipment.

Subject to the provisions of the next succeeding paragraph, an

Operator shall distribute to the winners of each pari-mutuel pool the total amount wagered with respect to that pool, less the following deductions to be retained by such Operator as in the case may be applicable:

(i) in the case of any pari-mutuel pool where the bettor is required to select one horse, there shall be deducted an amount equal to seventeen percent (17%) of the total amount wagered with respect to that pool plus the Breakage applicable to the winning bets for that pool;

(ii) in the case of any pari-mutuel pool where the bettor is required to select two horses, there shall be deducted an amount equal to twenty-one percent (21%) of the total amount wagered with respect to that pool plus the Breakage applicable to the winning bets for that pool; and

(iii) in the case of any pari-mutuel pool where the bettor is required to select three or more horses, there shall be deducted an amount equal to twenty-three percent (23%) of the total amount wagered with respect to that pool plus the Breakage applicable to the winning bets for that pool.

In addition to the amounts permitted by the preceding sentence to be deducted from all pari-mutuel pools and retained by an Operator, such Operator shall be permitted to retain all moneys represented by unclaimed, uncashed, or abandoned pari-mutuel tickets; provided, however, that no pari-mutuel ticket shall be deemed to be unclaimed, uncashed, or abandoned unless it shall not be presented for payment within six months from the date of the running of the race to which such pari-mutuel ticket pertains.

During any period in which an Operator shall be required to pay the State Wagering Fee, such Operator shall have the right to increase the deduction permitted by the next preceding paragraph by any amount up to one percent (1%) of the total amount wagered with respect to any pari-mutuel pool, any provisions of this Act or any other law to the contrary notwithstanding. It is hereby expressly declared that this right is conferred upon each Operator licensed by a Commission for the purpose of enabling such Operator to generate all or part of the money necessary to pay the State Wagering Fee, and any increase in the amount deducted by an Operator from any pari-mutuel pools pursuant to the exercise of such right shall not be made the basis of any increase in the State Wagering Fee, the Commission Wagering Fee or any other taxes, fees or commissions payable by such Operator. No increase in the amount deducted from any pari-mutuel pool shall be permitted pursuant to this paragraph until such time as an Operator shall become liable for the State Wagering Fee, but thereafter, and for so long as such Operator shall remain

liable for the State Wagering Fee, the right conferred by this paragraph to increase the amount deducted may be exercised at any time and from time to time (including the right to institute an increase and thereafter discontinue and resume it any number of times), may be exercised with respect to all pari-mutuel pools or with respect to some and not to others, and may be exercised with respect to any pari-mutuel pool in any degree of increase, not exceeding in any case more than one percent (1%) of the total amount wagered with respect to that pool, all as such Operator shall determine in the exercise of its sole discretion without direction or influence from the Commission licensing such Operator, any State Racing Commission or any other governmental body.

A Commission shall adopt and maintain rules and regulations for each kind of pari-mutuel pool that may be operated by an Operator licensed by such Commission, and such rules and regulations shall be published by such Commission in book or pamphlet form for general distribution to all interested persons. Under the pari-mutuel system of wagering hereby authorized, an Operator shall be permitted to provide separate pools for bets to win, place, and show, as well as separate pools for more complex wagers involving such combinations of races and such combinations of the outcomes of races as shall be approved by the Commission licensing such Operator. Each pool (less the amount that the Operator is permitted to retain pursuant to the provisions of this section) shall be distributed separately to the winners thereof in accordance with the rules and regulations of the governing Commission for that kind of pari-mutuel pool. If there is no ticket bet on the winning horse or combination of horses for any pari-mutuel pool, the portion of the pool which would have been distributed to any winners thereof shall be distributed to the holders of tickets for such pool in accordance with the rules and regulations of the governing Commission for that kind of pari-mutuel pool.

**Section 29.** State Wagering Fee. No license tax, fee or equivalent charge shall be levied by the State against horse racing or pari-mutuel wagering thereon licensed and regulated by a Commission during a period beginning with the effective date of this Act and continuing until the fifth (5th) anniversary of the date on which racing events shall first be conducted under the jurisdiction of such Commission. Beginning with such fifth (5th) anniversary of the date on which racing events shall first be conducted under the jurisdiction of a Commission, and continuing thereafter for so long as such Commission shall continue in existence, each Operator licensed by such Commission shall pay to the Department of Revenue of the State (or such other department or agency of the State as may be provided by law) a State Wagering Fee in an amount equal to one



percent (1%) of the Handle of such Operator. The State Wagering Fee shall be paid in installments referable to the calendar months during which racing events shall be conducted by an Operator, and the installment referable to any calendar month shall be an amount equal to one percent (1%) of the Handle of such Operator for such calendar month and shall be paid to the Department of Revenue of the State (or such other department or agency of the State as may be provided by law) prior to the end of the next succeeding calendar month. The Department of Revenue of the State (or other collecting department or agency of the State) is hereby authorized to promulgate and enforce such rules and regulations, not inconsistent with the provisions of this Act, as shall be reasonably necessary for the determination and collection of the State Wagering Fee. The Department of Revenue of the State (or other collecting department or agency of the State) may require a bond with surety acceptable to it in an amount determined by it to be sufficient to cover the maximum liability for the State Wagering Fee that may at any time be incurred by an Operator.

The Legislature hereby finds and determines that the State Wagering Fee authorized by this Act is the maximum license fee or equivalent tax or charge which can be levied by the State against horse racing or pari-mutuel wagering thereon without impairing the economic viability of horse racing and lessening its contribution to increased employment and tourism in the State. No State Racing Commission shall have the power to increase the State Wagering Fee above the limits provided in this Act, to impose the State Wagering Fee for any period not herein authorized, or to levy or impose any additional license fee or equivalent tax or charge against horse racing or pari-mutuel wagering thereon conducted under the provisions of this Act.

**Section 30. Commission Wagering Fee.** Each Operator shall pay to the treasurer of the Commission licensing such Operator a Commission Wagering Fee for each calendar year during which it conducts any racing events. The amount of the Commission Wagering Fee for an Operator for a given calendar year shall be equal to the sum of (i) two percent (2%) of the Handle of such Operator for such calendar year to the extent that such Handle does not exceed one hundred fifty million dollars (\$150,000,000) and (ii) four percent (4%) of the portion of the Handle of such Operator for such calendar year that exceeds one hundred fifty million dollars (\$150,000,000). Each Operator shall make payment of its Commission Wagering Fee for each calendar year to the treasurer of the licensing Commission in monthly installments. For each calendar year, the monthly installment referable to any month (other than the month during which the final racing event for such calendar year

shall be conducted) shall be equal to two percent (2%) of the Handle for such month. The monthly installment referable to the month during which the final racing event for any such calendar year shall be conducted shall be equal to the sum of (i) two percent (2%) of the Handle for such month and (ii) two percent (2%) of the portion of the aggregate Handle for such calendar year in excess of one hundred fifty million dollars (\$150,000,000). The installment of the Commission Wagering Fee referable to any calendar month shall be paid to the treasurer of the appropriate Commission prior to the end of the next succeeding calendar month.

If at any time during a calendar year the aggregate Handle of an Operator for such calendar year exceeds one hundred fifty million dollars (\$150,000,000), then such Operator shall, in order to assure the availability of the moneys required to pay the final installment of its Commission Wagering Fee for such calendar year, set aside and invest moneys in an amount equal to two percent (2%) of the portion of such aggregate Handle in excess of one hundred fifty million dollars (\$150,000,000) in investments of the kind in which the funds of a Commission are permitted by Section 9 hereof to be invested by its treasurer. Any such investments acquired by an Operator shall be held by it in trust for the benefit of the Commission licensing such Operator in order to secure the payment of the Commission Wagering Fee, but the Operator shall be entitled to any interest earned from such investments until the due date of the final installment of the Commission Wagering Fee for such calendar year.

The Legislature hereby finds and determines that the Commission Wagering Fee authorized by this Act is the maximum license fee or equivalent tax or charge which can be levied by a Commission or by any political subdivision of the State against horse racing or pari-mutuel wagering thereon without impairing the economic viability of horse racing and lessening its contribution to increased employment and tourism in the State. No Commission shall have the power to increase the Commission Wagering Fee above the limits provided in this Act or to levy or impose any additional license fee or equivalent tax or charge against horse racing or pari-mutuel wagering thereon conducted under the provisions of this Act.

**Section 31. Purses.** From the moneys deposited in pari-mutuel pools which are not distributed to the holders of winning tickets, each Operator shall apply an amount equal to seven percent (7%) of its total Handle to provide purse moneys for races conducted by such Operator. Prior to the commencement of any race meeting, the Operator conducting such meeting shall estimate the amount of its Handle to be derived from such meeting. Based upon such estimate, the Operator shall adopt a schedule providing for a reasonable allocation of purse moneys over the period of the anti-

pated race meeting. Any such schedule may be amended from time to time during the course of a race meeting if it becomes apparent that the Operator's actual Handle for such race meeting will not match its original estimate.

Each Operator shall provide the Commission licensing such Operator with periodic reports respecting the amounts applied by such Operator to provide purse moneys. If at the close of any race meeting it is determined that the Operator conducting such meeting failed to apply an amount equal to seven percent (7%) of its Handle for such meeting to provide purse moneys, then any excess shall be deducted from, and any deficiency shall be added to, the amount which such Operator is required to provide as purse moneys for its next succeeding race meeting.

**Section 32.** Television or Radio Transmission of Racing Events. Each Commission shall have the power to adopt rules and regulations specifying the conditions under which television or radio coverage of racing events held at racetracks located outside the State may be transmitted for public viewing to racetrack facilities within the Sponsoring Municipality which are under the jurisdiction of such Commission and there made the object of pari-mutuel wagering. Subject to such exceptions as a Commission may approve by rule or regulation in order to satisfy applicable requirements of federal law, all pari-mutuel wagering with respect to such racing events that are the subject of television or radio coverage shall be subject to the rules governing pari-mutuel wagering on racing events conducted at racetracks under the jurisdiction of such Commission, including the provisions of Sections 28, 29 and 30 hereof.

Each Commission shall also have the power to adopt rules and regulations specifying the conditions under which television or radio coverage of racing events held at racetracks under the jurisdiction of such Commission may be either (i) transmitted on a live or delayed basis by a commercial television or radio station or network for the entertainment of the public or (ii) transmitted to specific locations in other states for the purpose of pari-mutuel wagering at such locations.

Nothing contained in this section or any other provision of this Act shall be construed to authorize or make lawful wagering or gambling of any kind at any location other than the pari-mutuel facilities located at racetrack facilities licensed by a Commission.

**Section 33.** Admission Fee. The governing body of a Sponsoring Municipality may by ordinance impose a fee on an Operator licensed hereunder to conduct a race meeting of \$.25 on the admission of each person on each day of such meeting, except those persons holding valid permits under this Act and actually employed at

such track in the capacities for which such permits were issued. The Operator may collect such amount from the ticket purchaser in addition to the amount charged for the ticket of admission.

**Section 34. Breeding Fund.** Each Commission shall establish a special fund to promote the breeding, raising and racing of thoroughbred and standardbred horses in the State, which shall be known as "The \_\_\_\_\_ [name of the Sponsoring Municipality] Racing Commission Breeding and Development Fund." Each Operator shall pay to its licensing Commission a Breeding Fund Fee for each month during which it conducts any racing events. For each Operator, the Breeding Fund Fee for any month shall be an amount equal to one-half of one percent ( $\frac{1}{2}\%$ ) [or, in the case of any such fee referable to any month during the period of three years immediately following such Operator's receipt of an operator's license, one-quarter of one percent ( $\frac{1}{4}\%$ )] of the Handle for such Operator for such month. The Breeding Fund Fee payable by an Operator for a given month shall be paid to the treasurer of the Commission governing such Operator before the end of the succeeding month. All Breeding Fund Fees received by a Commission shall be deposited into its Breeding Fund.

Twenty percent (20%) of the aggregate amount of Breeding Fund Fees received by each Commission in each calendar year shall be set aside for distribution to the schools of veterinary medicine of Auburn University and Tuskegee Institute. Each Commission shall distribute the moneys so set aside on such schedule as shall be administratively reasonable and convenient, but in any event all such moneys referable to the Breeding Fund Fees received in any calendar year shall be distributed not later than sixty (60) days after the end of such calendar year. Each Commission shall divide the twenty percent of the Breeding Fund Fees required to be set aside for the schools of veterinary medicine at Auburn University and Tuskegee Institute between such schools in an equitable manner, taking into account the number of students served by each school, the financial needs of each school to maintain accepted academic standards, the nature and quality of equine research conducted at each such school and such other factors as such Commission shall deem relevant in the circumstances; provided, however, that neither of such schools of veterinary medicine shall receive less than twenty-five percent (25%) of the total amount required to be set aside by the provisions of this paragraph in any calendar year. All moneys distributed to the schools of veterinary medicine at Auburn University or Tuskegee Institute pursuant to this paragraph shall be used exclusively for supportive research on the health and diseases of the horse.

Each Commission shall adopt rules and regulations governing the maintenance and administration of its Breeding Fund and the

disbursement of the moneys deposited therein, provided that such moneys may be used only for the purposes specified in the next preceding paragraph of this section and for the following additional purposes:

(1) to provide awards to Breeders and owners of Alabama-Bred thoroughbred or standardbred horses finishing first, second, third or fourth in pari-mutuel races run in the State;

(2) to provide awards to Stallion Owners whose Alabama Stallions have sired Alabama-Bred thoroughbred or standardbred horses finishing first, second, third or fourth in pari-mutuel races run in the State;

(3) to provide purse moneys for races conducted exclusively for Alabama-Bred thoroughbred or standardbred horses under conditions which have been approved by such Commission;

(4) to advance and promote the breeding and raising of thoroughbred and standardbred horses in the State by the publication and dissemination of information relating thereto;

(5) to promote equine research through grants to universities within the State; and

(6) to provide for the administration and management of such Breeding Fund.

**Section 35.** No Taxes in Addition to Fees. The State Wagering Fee, the Commission Wagering Fee and any other fees imposed by this Act on pari-mutuel wagering shall be in lieu of all license and excise taxes imposed on horse racing and pari-mutuel wagering thereon by the State or any county, municipality or other political subdivision thereof; provided, however, that this section shall not be construed to confer any exemption with respect to any uniform taxes levied generally on property, income or business activity, including, without limitation, (i) income taxes levied by the State, (ii) occupational taxes levied on wages by a Sponsoring Municipality or Host County, (iii) ad valorem taxes levied on any racing facility at the same rates as are applicable to other commercial property having comparable market value, and (iv) state and local sales taxes on merchandise sold by Operators or their concessionaires at racing events.

**Section 36.** Application of Net Revenues. All commission wagering fees and other fees, commissions and moneys, including finds and forfeitures, to which a Commission shall be entitled under the provisions of this Act shall be paid to the treasurer or such Commission and shall be deposited by said treasurer to the account of such Commission. All such moneys remaining after (i) the payment

of all expenses incurred in the administration of this Act, including (without limitation thereto) the payment of the salaries and expenses of the Members and employees of such Commission and (ii) the deposit into the Breeding Fund of all amounts required by Section 34 hereof to be deposited therein shall be allocated and paid not less frequently than once each calendar year as follows:

(1) eighteen percent (18%) of the Net Revenues shall be allocated to the Sponsoring Municipality, subject to the condition that five percent (5%) of the amount so allocated shall be contributed to the general employees' pension fund of the Sponsoring Municipality for the purpose of providing cost-of-living increases in pension benefits;

(2) ten percent (10%) of the Net Revenues shall be allocated in total to the county or counties in which the Sponsoring Municipality or any part thereof shall be located, subject to the conditions that

(i) if the Sponsoring Municipality is located in more than one county, the portion of the said ten percent of Net Revenues allocated to each such county shall be determined in proportion to the population of the Sponsoring Municipality residing in such county as determined by the most recent federal decennial census,

(ii) one-half of the amount of Net Revenues allocated to any county shall be used for county-wide purposes (including both incorporated and unincorporated areas) in such manner as shall be determined by the governing body of such county, and

(iii) one-half of the amount of Net Revenues allocated to any county shall be used to defray the cost of governmental operations conducted in the unincorporated parts of such county or shall otherwise be used for the exclusive benefit of the unincorporated parts of such county in such manner as shall be determined by the governing body thereof;

(3) if the Board of Trustees of the University of Alabama operates a college, graduate school, extension center or other educational facility located in any county in which the Sponsoring Municipality or any part thereof shall be located, nine percent (9%) of the Net Revenues shall be allocated to the Board of Trustees of the University of Alabama, subject to the conditions that

(i) such amount shall be used exclusively in the county or counties in which the Sponsoring Municipality or any part thereof shall be located;

(ii) one twelfth (1/12) of the amount of Net Revenues allocated to the Board of Trustees of the University of Alabama shall be

used for the support of any programs operated for the correction or treatment of learning disorders of any kind or research into the causes of such disorders, and if no such programs are operated by the Board of Trustees of the University of Alabama in the county or counties in which the Sponsoring Municipality or any part thereof shall be located, such portion of the Net Revenues shall be used in such county or counties for such other purposes or programs as may be determined by said Board of Trustees, and

(iii) one twelfth (1/12) of the amount of Net Revenues allocated to the Board of Trustees of the University of Alabama shall be used for the support of any programs or laboratories operated for research in virology, and if no such programs or laboratories are operated by the Board of Trustees of the University of Alabama in the county or counties in which the Sponsoring Municipality or any part thereof shall be located, such portion of the Net Revenues shall be used in such county or counties for such other purposes or programs as may be determined by said Board of Trustees;

(4) three percent (3%) of the Net Revenues shall be allocated in total to public junior colleges [other than any public junior colleges described in paragraph (5) of this section] located in the county or counties in which the Sponsoring Municipality or any part thereof shall be located; and if there shall be more than one of such public junior colleges, the said three percent of the Net Revenues shall be apportioned equally among such colleges;

(5) two percent (2%) of the Net Revenues shall be allocated in total to public junior colleges which are located in the county or counties in which the Sponsoring Municipality or any part thereof shall be located and the student enrollment of which is predominantly drawn from economically disadvantaged minorities; and if there shall be more than one of such public junior colleges, the said two percent of the Net Revenues shall be apportioned equally among such colleges;

(6) two percent (2%) of the Net Revenues shall be allocated in total to public technical colleges located in the county or counties in which the Sponsoring Municipality or any part thereof shall be located; and if there shall be more than one of such public technical colleges, the said two percent of the Net Revenues shall be apportioned equally among such colleges;

(7) two percent (2%) of the Net Revenues shall be allocated to any public corporation or authority which provides public transportation in an area including the Sponsoring Municipality;

(8) seventeen percent (17%) of the Net Revenues shall be allocated in total to all county, municipal, district or other public school

systems operating primary and/or secondary schools in any county or counties in which the Sponsoring Municipality shall be located; and if there shall be more than one of such school systems, the said seventeen percent of the Net Revenues shall be allocated to such school systems in proportion to their average daily attendance during the most recently completed school year;

(9) if any incorporated municipalities other than the Sponsoring Municipality are located in the county or counties in which the Sponsoring Municipality or any part thereof shall be located, six percent (6%) of the Net Revenues shall be allocated in total to such other municipalities; and if there shall be more than one of such municipalities, the said six percent of the Net Revenues shall be allocated to such municipalities in proportion to their population as determined by the most recent federal decennial census;

(10) five and one-half percent of the net revenues shall be allocated in total to any public fire districts or volunteer fire departments organized and operating in the county or counties in which the sponsoring municipality or any part thereof shall be located; and if there shall be more than one of such fire districts or volunteer fire departments, the said five and one-half percent of the net revenues shall be allocated as follows:

a. Among such fire districts and volunteer fire departments in proportion to the approximate number of single family residences and other buildings provided fire protection thereby, which number in the case of a public fire district shall be the paid membership thereof and in the case of a volunteer fire department shall be a census of the number of protected residences and other buildings confirmed by affidavit of the chief executive of such volunteer fire department.

(11) two percent (2%) of the Net Revenues shall be allocated in total to any hospitals which are owned by any county, municipality or public corporation or authority and which are located in the county or counties in which the Sponsoring Municipality shall be located; and if there shall be more than one of such hospitals, the said two percent of the Net Revenues shall be allocated to such hospitals in proportion to their average patient census during the most recently completed annual period selected by the Commission for the purpose of making such allocation;

(12) one-half of one percent ( $\frac{1}{2}\%$ ) of the Net Revenues shall be allocated in total to any public authority or corporation at any time created by law to alleviate or solve, or to assist in the alleviation or solution of, flooding problems caused by creeks in the Sponsoring Municipality and Host County as the result of heavy rainfall; and if no such authority or corporation shall be in existence at the



time of any allocation required to be made pursuant to this paragraph (12), such allocation shall be made to the Sponsoring Municipality for use in alleviating or solving such flooding problems, provided that the Sponsoring Municipality may use such allocation for other purposes if its governing body shall determine that no such flooding problems occur in the Sponsoring Municipality;

(13) one percent (1%) of the Net Revenues shall be allocated to the Tannehill Furnace and Foundry Commission established pursuant to Code of Alabama 1975, §§ 41-9-320 through 41-9-330, inclusive;

(14) one-half of one percent ( $\frac{1}{2}\%$ ) of the Net Revenues shall be allocated in total to the civil defense department at the time and from time to time maintained or administered by the Sponsoring municipality;

(15) one percent (1%) of the Net Revenues shall be allocated to the Alabama State Fair Authority established pursuant to Act No. 215 enacted at the 1947 Regular Session of the Legislature of Alabama; and

(16) if and to the extent that the allocations of Net Revenues described in this paragraph can be lawfully made to recipients satisfying the applicable conditions as herein set forth, the Commission shall allocate and disburse the following percentages of the Net Revenues for the following purposes:

(i) three percent (3%) of the Net Revenues shall be allocated in total to private, not-for-profit colleges which are located outside the corporate limits of the Sponsoring Municipality in any incorporated or unincorporated part of any county in which the Sponsoring Municipality or any part thereof shall be located and the student enrollment of which is predominantly drawn from economically disadvantaged minorities;

(ii) three percent (3%) of the Net Revenues shall be allocated in total to private, not-for-profit law schools which are located outside the corporate limits of the Sponsoring Municipality in any incorporated or unincorporated part of any county in which the Sponsoring Municipality or any part thereof shall be located and the student enrollment of which is predominantly drawn from economically disadvantaged minorities, it being expressly provided that the receipt by a college of any amount pursuant to the provisions of subparagraph (i) of this paragraph (16) shall not disqualify any law school affiliated with such college from receiving any amount for which such law school would otherwise qualify pursuant to the provisions of this subparagraph;

(iii) one-half of one percent ( $\frac{1}{2}\%$ ) of the Net Revenues shall

be allocated in total to private, not-for-profit colleges which are located in the Sponsoring Municipality and the student enrollment of which is predominantly drawn from economically disadvantaged minorities;

(iv) one percent (1%) of the Net Revenues shall be allocated in total to not-for-profit organizations, whether public or private, which operate in any county in which the Sponsoring Municipality or any part thereof shall be located and which promote, undertake or otherwise assist the career orientation, training and employment of persons belonging to economically disadvantaged minorities;

(v) one percent (1%) of the Net Revenues shall be allocated in total to not-for-profit organizations, whether public or private, that are located in the Sponsoring Municipality and that promote economic development in the Sponsoring Municipality and the surrounding metropolitan area;

(vi) five percent (5%) of the Net Revenues shall be allocated in total to private not-for-profit hospitals located in the Sponsoring Municipality that primarily provide care for children;

(vii) one percent (1%) of the Net Revenues shall be allocated in total to not-for-profit organizations, whether public or private, which are located in any county in which the Sponsoring Municipality or any part thereof shall be located and which sponsor, promote or conduct research and education related to the cure or control of sickle cell anemia or provide treatment or other aid for victims of that disease;

(viii) subject to the provisions of subparagraph (ix) of this paragraph (16), one and one-half percent (1-½ %) of the Net Revenues shall be allocated in total to not-for-profit organizations (including any particular branch thereof) which are located in the Sponsoring Municipality (including, without limitation thereto, organizations such as the Young Men's Christian Association and the Young Women's Christian Association) and which provide educational and recreational activities for young persons predominantly belonging to economically disadvantaged minorities;

(ix) the provisions of subparagraph (viii) of this paragraph (16) to the contrary notwithstanding, if any Commission shall be created pursuant to this act for which the Sponsoring Municipality shall be the City of Birmingham, then, and in such case, one-half of one percent (½ %) of the Net Revenues of such Commission shall be deducted from the amount to be allocated pursuant to the said subparagraph (viii) and shall instead be allocated to Partners in Neighborhood Growth for use in providing recreational or educational activities for young persons;

(x) one and one-half percent ( $1\frac{1}{2}\%$ ) of the Net Revenues shall be allocated in total to not-for-profit organizations (including particularly any research development and scholastic assistance fund), whether public or private, which are located in any county in which the Sponsoring Municipality or any part thereof shall be located and which promote and encourage scientific or technical research or education at the secondary and college levels by any means, including (without limitation thereto) financial assistance to schools and students, the development of improved curricula, and the training of teachers; provided, however, that if any Commission shall be created pursuant to this Act for which the Sponsoring Municipality shall be the City of Birmingham, then, and in such case, the one and one-half percent of the Net Revenues of such Commission referred to in this subparagraph (x) shall be allocated in its entirety to the Research, Development and Scholastic Assistance Fund for Science and Technology, Inc., a private, not-for-profit corporation organized under the laws of Alabama;

(xi) one percent (1%) of the Net Revenues shall be allocated to the local chapter or affiliate of The National Urban League that is based in the Sponsoring Municipality;

(xii) one percent (1%) of the Net Revenues shall be allocated to the local chapter or affiliate of the United Cerebral Palsy Association, Inc. that is based in the Sponsoring Municipality;

(xiii) one-half of one percent ( $\frac{1}{2}\%$ ) of the Net Revenues shall be allocated in total to private, not-for-profit organizations which are located in the Sponsoring Municipality and which sponsor and promote ballet and similar forms of the art of dance by any means, including the training of dancers and the giving of performances; and

(xiv) one-half of one percent ( $\frac{1}{2}\%$ ) of the Net Revenues shall be allocated in total to not-for-profit organizations which are located in the Sponsoring Municipality and which assist and coordinate the activities of artists or groups of artists which perform or display their works within the Sponsoring Municipality.

Except as may herein be specifically provided otherwise, if there shall at any time exist more than one institution or organization which qualifies for a portion of any generic allocation of Net Revenues made pursuant to any of subparagraphs (i) through (xiv), inclusive, of paragraph (16) of this section, then, and in such case, a Commission shall apportion such allocation among all institutions or organizations which evidence to such Commission (in such manner as it shall reasonably require) their respective qualifications to receive a portion of such allocation. Any such allocation shall be apportioned among the qualifying institutions and organizations of

each generic category in an equitable manner to be determined by the Commission, taking into account the relative scale of activities of each qualifying institution or organization, the number of persons served thereby or other relevant factors. A Commission shall have reasonable discretion in determining whether, in the light of the legislative intent, a particular institution or organization shall be entitled to an allocation of any portion of the Net Revenues pursuant to the provisions of this section.

A Commission and the individual Members thereof shall be fully protected against any charge of malfeasance in relying upon an opinion of the Attorney General of the State of Alabama that a portion of the Net Revenues may be lawfully allocated and paid to any institution or organization pursuant to any of the provisions of paragraph (16) of this section, unless a court of competent jurisdiction shall declare invalid the allocation of Net Revenues to any such institution or organization.

If any allocation of any portion of the Net Revenues pursuant to any provision of this section cannot be made for any reason (including, without limitation thereto, the legal invalidity of the provisions of this Act authorizing such allocation, lack of lawful authority by a Commission to make such allocation, the nonexistence of any public body or any public or private institution or organization entitled to receive such allocation, or any other failure to satisfy the conditions of such allocation), then, and in such case, the failure of such allocation shall not impair the validity or effectiveness of any part of this Act other than the provisions hereof specifically providing for such allocation, nor shall the failure of such allocation adversely affect any other allocation of Net Revenues under this Act. Any portion of the Net Revenues that, for any reason, cannot be allocated in accordance with the specific provisions of any of paragraphs (1) through (16) of this section shall be apportioned among those governmental bodies, institutions and organizations actually receiving lawful allocations hereunder in proportion to the respective amounts of Net Revenues which would have been allocated to such governmental bodies, institutions and organizations if there had been no need to reallocate any Net Revenues that could not be allocated in accordance with the specific provisions of said paragraphs (1) through (16).

It is hereby expressly declared that the primary purpose of this Act is to provide a means for permitting and regulating horse racing and pari-mutuel wagering thereon in Class 1 municipalities and, further, that it is not a primary purpose of this Act to provide funds for the various governmental bodies and public or private institutions and organizations to which allocations of portions of the Net Revenues of each Commission are made pursuant to this section. The

Legislature recognizes that one or more of such governmental bodies, institutions or organizations may not exist in the Sponsoring Municipality or in the surrounding county or counties, as the case may be, and that, even if the intended recipients do exist and satisfy the applicable conditions, any one or more of such allocations of the Net Revenues may fail because of legal invalidity or other reasons. The allocations of Net Revenues made pursuant to this section represent the legislative effort to confer an incidental benefit upon a wide spectrum of governmental and charitable activities, all of which may not be present in the same degree in every Class 1 municipality subject to this Act. Therefore, the legal invalidity or other failure of one or more allocations of Net Revenues made pursuant to this section should not impair the general validity of this Act or prevent the provisions hereof, other than those relating to the invalid or ineffective allocations, from being implemented as a coherent whole. If and to the extent that any allocation of Net Revenues made to any governmental body or any institution or organization is of such character as to cause this Act to be a local act, it is the legislative intent that the provisions for such allocation be severed from this Act and thereby prevented from causing this Act to be a local act.

**Section 37. Conducting Race Without License and Wagering Thereon Prohibited.** Any person who directly or indirectly holds any horse race without having procured a license as prescribed in this Act, shall be guilty of a misdemeanor. Any person wagering upon the results of such a race, except in the case of pari-mutuel wagering conducted by an Operator in accordance with the provisions of this Act, shall be guilty of a misdemeanor. Upon conviction of any of the above misdemeanors in a court of competent jurisdiction, the penalty shall be a fine of not less than one hundred dollars (\$100), nor more than one thousand dollars (\$1,000), or imprisonment of not less than five days nor more than six months, or both, such fine and imprisonment to be in the discretion of the court.

**Section 38. Disqualification Due to Gambling Activities.** No person who engages in the practice of professional gambling on horse races, or in the practice of making gambling or wagering books on such races, or who knowingly takes any part in such practice, shall be eligible as an applicant for any license or permit to own or operate a racetrack or conduct racing activities under the provisions of this Act, or to be connected therewith in any capacity, and any corporation, partnership or other entity which has an officer, director, stockholder, partner or executive or who employs any person who engages in such practices shall likewise be ineligible as a licensee, and each Commission is hereby empowered to inquire into such matters in entertaining any such application and otherwise in administering this Act.

**Section 39. Tampering with Horses Prohibited.** No person shall influence or have any understanding or connivance with any owner, trainer, jockey, driver, groom or other person associated or interested in any stable, horse or race in which any horse participates, to prearrange or predetermine the results of any such race, nor shall any person stimulate or depress a horse, for the purpose of affecting the results of a race, by use of any electrical device or any electrical equipment or by any mechanical or other device not generally accepted as regulation racing equipment, nor shall any person stimulate or depress a horse through the administration of any drug or chemical, or knowingly enter any horse in any race within a period of twenty-four hours after any drug or chemical has been administered to such horse, for the purpose of increasing or retarding the speed of such horse.

No person shall, except for medical purposes, administer any poison, drug, medicine or other substance to any horse entered or about to be entered in any race, or expose such substance to a horse with the intent that it be taken, or cause any foreign substance to be taken by or placed upon or in the body of such horse, with intent to impede or increase its speed, endurance, health or physical or mental condition.

Any person violating the provisions of this section shall be guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than one year nor more than ten years, or fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or both, in the discretion of the court.

**Section 40. Transmission of Racing Information Prohibited.** With the exception of television or radio coverage of races authorized in accordance with Section 32 of this Act, it shall be unlawful for any person to transmit or communicate to another by any means whatsoever the results, changing odds, track conditions, or other information relating to any horse race from any racetrack in any Sponsoring Municipality between the period of time beginning one hour prior to the first race of the day and ending thirty (30) minutes after the posting of the official results of each race, as to that particular race, except this period may be reduced to permit the transmitting of the result of the last race each day not sooner than fifteen (15) minutes after the official posting of such results; provided, however, that each Commission may by rule permit the immediate transmission by radio, television (other than television or radio coverage pursuant to Section 32 hereof), or press wire of any pertinent information concerning feature races.

It shall be unlawful for any person to transmit by any means whatsoever racing information to any other person or relay the same

to any other person by word of mouth, by signal, or by use of telephone, telegraph, radio or any other means when the information is knowingly used or intended to be used for illegal gambling purposes or in furtherance of such gambling purposes.

Any person violating the provisions of this section shall be guilty of a felony and, upon conviction, shall be imprisoned for not less than one year nor more than ten years, or fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or both, in the discretion of the court.

**Section 41.** Possession of Certain Drugs Prohibited. The possession or transportation of any drug or chemical except those permitted by regulations of the appropriate Commission within the racing enclosure is prohibited except upon a bona fide veterinarian's prescription with complete statement of uses and purposes on the container. A copy of such prescription shall be filed with the stewards.

**Section 42.** Misuse of License. Any credential, license or permit issued by a Commission, if used by the holder thereof for a purpose other than identification and in the performance of legitimate duties on a racetrack, shall be automatically revoked whether so used on or off a racetrack.

**Section 43.** Racing under Unregistered Name Prohibited. No person shall knowingly enter or race any horse in any running or harness race under any name or designation other than the name or designation assigned to such horse by and registered with the Jockey Club, the United States Harness Association or other applicable association or knowingly instigate, engage in or in any way further any act by which any horse is entered or raced in any running or harness race under any name or designation other than the name or designation duly assigned by and registered with the Jockey Club, the United States Harness Association or other applicable association.

**Section 44.** Wagering by Underage Persons Prohibited. No person shall wager on or conduct any wagering on the outcome of a horse race pursuant to the provisions of this Act unless such person be twenty-one years of age or older. No person shall accept any wager from a person under the age of twenty-one years.

**Section 45.** Exemption from Jurisdiction of State Racing Commission. In the event that a State Racing commission shall be created, organized or established at any time, whether before or after the effective date of this Act, each Commission created hereunder and all Owners and Operators licensed thereby shall be exempt from the jurisdiction of such State Racing Commission and from the

force and effect of all laws providing for or relating to such State Racing Commission for a period beginning with the effective date of this Act and continuing until the fifth (5th) anniversary of the date on which racing events shall first be conducted under the jurisdiction of such Commission created hereunder. It is hereby expressly declared that no act enacted at the session of the Legislature during which this Act is enacted or at any subsequent session shall be construed to effect a repeal or negation of the exemption conferred by this section, whether by implication or otherwise, in the absence of a provision in such act expressly repealing the provisions of this section.

**Section 46.** County-Wide Referendum to Approve Pari-Mutuel Wagering. Pari-mutuel wagering with respect to horse racing may not be conducted in the State within the corporate limits of any Class I municipality unless the conduct of such pari-mutuel wagering within such municipality shall have been approved at a referendum at which all of the qualified voters residing in the county or counties in which such municipality, or any part thereof, is located are permitted to cast votes.

In order to satisfy the requirement imposed by this section, any referendum called and held pursuant to and in accordance with the provisions of Section 4 of this Act for the purpose of determining whether a Commission shall be incorporated for a Class I municipality shall be converted into a referendum permitting participation by all qualified voters residing within the county or counties in which such municipality, or any part thereof, is located. In the event that a referendum for any municipality shall be converted to a referendum in any county or counties pursuant to this section, the conduct of pari-mutuel wagering within such municipality shall be deemed to have been approved at such referendum for the purposes of this section only if it shall have been approved by both (i) a majority of all of the voters casting votes in such referendum and (ii) a majority of the voters casting votes in such referendum who reside in such municipality. If pari-mutuel wagering is not approved in any referendum conducted pursuant to this section, whether because of an unfavorable majority of all votes cast or because of an unfavorable majority of the votes cast by voters residing in the municipality involved, then any subsequent referendum called and scheduled by the governing body of such municipality in accordance with the provisions of Section 4 of this Act may be used to satisfy the requirement of this section, but only if such referendum is converted into a referendum permitting participation by all qualified voters residing within the county or counties in which such municipality, or any part thereof, is located.

Anything contained herein to the contrary notwithstanding, the



provisions of this section providing for the conduct of county-wide referenda are hereby expressly declared to be severable from the other provisions of this Act, and if such provisions of this section shall be determined by any court of competent jurisdiction to be invalid because of any defect in the notice required to be published with respect to this Act by Sections 106 and 110 of the Constitution of Alabama, as amended, or to be invalid for any other reason, such determination shall not affect, impair or invalidate the remaining provisions of this Act (including, without limitation, the provisions of Section 4 hereof).

**Section 47. Severability.** The provisions of this Act are expressly declared to be severable. If any provision of this Act shall be adjudged to be invalid by any court of competent jurisdiction (including, without limitation thereto, any particular allocation of Net Revenues or other provision which, if not severed from this Act, would cause it to be a local act in violation of any constitutional limitation or condition applicable to local acts), such provision shall be severed from this Act in order to effectuate the legislative intent that such judgment shall not affect, impair or invalidate the remainder of this Act, and the operation of such judgment shall be limited to the provision thereof directly involved in the action in which such judgment shall have been rendered.

**Section 48. Provisions of this Act Control.** Insofar as the provisions of this Act may be inconsistent with the provisions of any other law concerning activities and actions authorized by this Act, the provisions of this Act shall control, it being specifically declared that any other provisions of existing law that prohibit or regulate horse racing, gambling or pari-mutuel wagering shall not be applicable to any activities or actions authorized by this Act.

**Section 49. Section Captions.** The section headings or captions contained in this Act are included for convenience only and should not be considered a part of this Act or affect in any manner the construction or interpretation of this Act.

**Section 50. Effective Date.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on April 6, 1984 without approval by the Governor.

## AN ACT

To propose an amendment to Amendment No. 432 of the Constitution of Alabama of 1901, relating to fire protection districts in Etowah County, so as to provide for the levy and collection of additional property tax for fire protection in such districts.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following amendment to the Constitution of 1901 is proposed and shall become valid as a part of the Constitution when approved by a majority of the qualified electors voting thereon, as herein provided, and upon proclamation of the Governor:

## PROPOSED AMENDMENT

Amendment No. 432 of the Constitution of Alabama of 1901 is amended so as to read as follows:

“The Etowah County Commission is authorized in its discretion to establish fire districts within the geographical boundaries of Etowah County, said districts to exclude any corporate municipality. Provided, however, any corporate municipality may request through resolution of its governing body to become subject to the provisions of this amendment upon the approval of the additional tax levied herein by a majority of the qualified electors of the corporate municipality.

“The County Commission is further authorized to enter into agreements with volunteer fire departments within such county for fire protection and services.

“There is hereby levied, in addition to any taxes now authorized or that may be hereafter authorized by the Constitution and laws of Alabama, a fire protection tax of three mills. The fire protection tax levied herein shall be based upon the value of real and personal property assessed by affected property owners, as shown on the records of the tax assessor of Etowah County, Alabama, and shall be assessed and collected as are all ad valorem taxes in the county. The amount collected each year from assessment of this fire protection tax shall be paid into the county general fund and used in furtherance of fire protection within the affected area. Prior to the levy of the fire protection tax in a fire district, there shall be submitted to the electors of the district, at a special election called for that purpose in the district, the question of whether the said tax shall be levied, and the said tax shall be authorized at such election by a majority of the qualified electors within any particular fire district of the county or corporate municipality therein who vote at such election; provided further, that if a majority of the qualified electors of any of the fire districts participating in the election on the ratifica-

tion of this amendment shall vote for the ratification of this amendment, then the approval of this amendment as expressed by the vote in said district in favor of its ratification shall, of itself, authorize the levy and collection of the tax for fire protection purposes in that fire district, commencing with the levy for the tax year for which taxes will become due and payable on October 1, 1985.

"Elections on the question of the levy of a district fire protection tax may be held at any time and from time to time, provided, that if any such election held after the ratification of this amendment the proposal to levy the tax so submitted should be defeated then the proposal may not be submitted at another election held in the same district within two years from the last election held under this amendment.

"Any act heretofore enacted regarding said Etowah County fire fighting districts is hereby ratified and confirmed insofar as it is consistent with this amendment."

**Section 2.** The provisions of this amendment shall have no force and effect unless it shall first be unanimously approved by at least three-fifths vote of the elected members of each house and unanimously approved by the local constitutional amendment commission.

**Section 3.** Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in each newspaper qualified to run legal notices in the county affected.

**Section 4.** An election upon the proposed amendment is ordered to be held at the next general, special, constitutional or county election in Etowah County after the expiration of three months from final adjournment of the current session of the legislature. The election shall be held in accordance with the provisions of Amendment 425 to the Constitution of 1901, and Sections 17-17-1 through 17-17-6 of the Code of Alabama 1975.

#### CONSTITUTIONAL AMENDMENT

Passed the Senate March 27, 1984

Passed the House April 5, 1984 6th day of April

Act No. 84-133

H.J.R. 3—Rep. Ford

#### HOUSE JOINT RESOLUTION

CREATING A JOINT LEGISLATIVE INTERIM COMMITTEE TO STUDY THE STEEL INDUSTRY.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA,

**BOTH HOUSES THEREOF CONCURRING,** That there is hereby created a Joint Legislative Interim Committee to Study the Steel Industry. Said committee shall be composed of six members who shall be appointed from the Legislature. The Speaker of the House shall appoint three members and the Lieutenant Governor shall appoint three members from the House and Senate respectively.

The committee shall meet as soon after their appointment as practical and choose one of their members as chairman and another as vice chairman.

The committee shall study all aspects due to the merger between the LTV Corporation and Republic Steel Corporation and the possibility of closing the Gadsden plant in the Southern District and the depressed steel industry throughout the nation. This committee shall study the crucial issues facing the steel industry in Alabama and recommend ways in which the State of Alabama can assist the industry to resolve these special problems. The committee's review, while specifically directed to the area of financing and capital formation, environment and imported steel, may include other topics as well. This committee is supported by Republic Steel Corporation. The committee shall report its findings, suggestions and recommendations to the legislature not later than the 30th legislative day of the 1986 Regular Session. Upon giving such report, the committee shall automatically terminate.

Upon request of the chairman, the Clerk of the House and the Secretary of the Senate shall provide such clerical assistance as may be necessary for the committee's work. Each legislative member of the committee shall be entitled to his regular legislative compensation, his per diem and travel expenses for each day he attends a meeting of the committee, upon warrants drawn on the state comptroller upon requisitions signed by the chairman. Provided, however, that members shall not receive additional legislative compensation or per diem when the legislature is in session but shall receive their travel expenses as they travel upon the business of the committee within and without the state. The total of such expenses shall not exceed \$20,000.

Approved April 10, 1984

Time: 1:05 P.M.

Act No. 84-134

H.J.R. 159—Reps. Penry, McMillan

# HOUSE JOINT RESOLUTION

HONORING MELVIN ROBERTS ON HIS RETIREMENT

**FOLLOWING 31 YEARS OF SERVICE TO THE CITY OF FOLEY, ALABAMA.**

**WHEREAS, Melvin Roberts has served the City of Foley, both as an employee and as a prominent civic volunteer, serving above and beyond the call of duty in many areas; and**

**WHEREAS, Mr. Roberts is a family man; married to the former Eunice Wilson and the father of one son, Paul, and one daughter, Patricia, and the proud grandfather of four grandchildren and one great grandchild; and**

**WHEREAS, Mr. Roberts began working for the City of Foley in 1953 and worked with the Police Department approximately 15 years; and**

**WHEREAS, he has served under four mayors, seven park commissioners and four city clerks and has made outstanding contributions to the citizens and the youth of the area through many athletic programs. He has served as scoutmaster, and organized the first Tiny Mite Football team. Under his supervision and leadership landscaping and beautification of the city complex and athletic parks has been accomplished, and the city now has 6 lighted ball diamonds, 8 lighted tennis courts and 2 lighted pools; and**

**WHEREAS, in 1980 the Girls Softball State Tournament and in 1982 the Girls Softball World Series were held in Foley; and**

**WHEREAS, Mr. Roberts has a lifetime membership in P.T.A. and is presently president of the United Methodist Church's Men's Club where they are active members; and**

**WHEREAS, he has attended Tulane Medical Center; and courses at the Red Cross; Playground Workshop at the University of Alabama; Health Department, Medical Self Help Training Program; and Jaycees Physical Fitness Leadership; and has been active in Baldwin County as an Emergency Medical Technician; now therefore**

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby express our appreciation to Mr. Melvin Roberts for his many years of dedicated service to the citizens of Foley, Alabama, and**

**BE IT FURTHER RESOLVED, That a copy of this resolution be presented to Mr. Roberts.**

**Approved April 10, 1984**

**Time: 1:10 P.M.**

Act No. 84-135

H.J.R. 160—Rep. Laird

## HOUSE JOINT RESOLUTION

COMMENDING THE STUDENT GOVERNMENT ASSOCIATION OF SOUTHERN UNION STATE JUNIOR COLLEGE, WADLEY.

WHEREAS, on March 2, 1984, a statewide conference of Student Government Association delegates was convened on the campus of Southern Union State Junior College, with eleven two-year colleges participating; and

WHEREAS, these delegates reviewed a proposed constitution for action by the Alabama Confederation of Junior, Technical, and Community College Student Government Associations at its Spring Meeting; and

WHEREAS, the Southern Union SGA, under the leadership of president Kevin Long, vice president Lisa Mask, secretary-treasurer Frances Richardson and sponsor, Mrs. Susan Elliott, hosted this statewide conference in an effort to strengthen the organization and the representative institutions; and

WHEREAS, Student Government Association organizations are dedicated to maintaining high standards of quality, excellence, and good citizenship, which reflects favorably on the members and the institutions; and

WHEREAS, it is the desire of the Legislature to recognize the Southern Union Student Government Association for its leadership role in hosting this statewide conference and all members of State two-year-college SGA associations for their commitment to excellence; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend the Southern Union State Junior College in Wadley and the SGAs of all State two-year colleges for their assistance in improving the quality and relevance of programs, their enhancement of meaningful college experiences, and the leadership role they play on their respective campuses.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Southern Union State Junior College's Student Government Association.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-136

H.J.R. 162—Rep. Kennedy

## HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF MRS. PEARL WILLIAMS  
BOADLEY OF MOBILE, ALABAMA.

WHEREAS, in deep grievous sentiment, the Legislature of Alabama records the death of Mrs. Pearl Williams Boadley of Mobile, Alabama, on December 24, 1983; and

WHEREAS, Mrs. Boadley, though a native of Finchburg, Alabama, had been a resident of Mobile for 79 years at her death; and

WHEREAS, confessing Christ in early youth, Mrs. Boadley joined the Bethel A.M.E. Church during the pastorate of the Reverend Hunter, remaining faithful both in attendance and in service until forced by physical disabilities to worship and serve, instead, within her mind and always in her heart; and

WHEREAS, Miss Pearl, as she was widely and affectionately known, was indeed “. . . a noble mother and grandmother, loved by all she knew . . . she loved and served her Master, and tried his will to do”; and

WHEREAS, Mrs. Boadley, who is survived by a beloved son, Mr. James J. Johnson, also leaves to mourn: two grandchildren, Mrs. Audrey P. Farwell and Mr. James A. Johnson; an adopted son, Mr. John Drew; and other family members whose sorrow we truly share; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply grieved by the death of Mrs. Pearl Williams Boadley of Mobile, Alabama, and direct that a copy of this resolution be provided for her family, in expression of our concern for them during their time of such great loss.

Approved April 10, 1984

Time: 1:05 P.M.

Act No. 84-137

H.J.R. 163—Reps. Coleman, Rains

## HOUSE JOINT RESOLUTION

COMMENDING MR. WAYNE WASHAM, DIRECTOR OF  
THE ARAB HIGH SCHOOL BAND.

WHEREAS, the Alabama Legislature notes with highest com-

mendation the many outstanding accomplishments of Mr. Wayne Washam during his 25-year tenure as director of the Arab High School Band; and

WHEREAS, Mr. Washam, who is a native of Albertville, Alabama, and a graduate of Albertville High School, also is a graduate of Jacksonville State University with the B.S. degree; he additionally holds the Master's degree and AA certification from the University of Alabama; and

WHEREAS, during his tenure at Arab High School, Mr. Washam has served variously as band teacher, beginners through high school, as a history teacher and, since 1972, as assistant principal in addition to his position as band director; and

WHEREAS, since 1959, the Arab band program has grown from a small total of just 60 students to the current more than 500 participants and the band, under Mr. Washam's leadership has received numerous awards, including the "Most Entertaining Band" award, on three occasions at the Mid-South Marching Festival in Gadsden, Alabama; and

WHEREAS, the Arab High School Band also has participated in two gubernatorial inaugural parades and has appeared in concerts, exhibitions, competitions and on invitational occasions throughout the Southeast, receiving multiple excellent and superior ratings and awards; and

WHEREAS, Mr. Washam, who is active in the affairs of the Arab First United Methodist Church where he serves on the Administrative Board, was the recipient of the Arab Chamber of Commerce first "Outstanding Citizen" award in 1976 and additionally was a nominee for the Jaycees' "Outstanding Young Educator for Alabama" award; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Band Director Wayne Washam for outstanding contributions to the Arab High School band program and for notable professional achievement.

BE IT FURTHER RESOLVED, That in token of our sincere praise and regard, a copy of this resolution shall be forwarded to Mr. Washam.

Approved April 10, 1984

Time: 1:05 P.M.



Act No. 84-138

H.J.R. 167—Reps. Bugg, Ford, Junkins,  
Rains

## HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF JUDGE WILEY HICKMAN  
OF GADSDEN, ALABAMA.

WHEREAS, the Legislature of Alabama, in deep sorrow and regret, notes the death of Judge Wiley Hickman of Gadsden, Alabama, on January 3, 1984, at the age of 66 years; and

WHEREAS, Judge Hickman, though a native of Jefferson County, had been a resident of Gadsden since 1939 and, at the time of his death, was serving in his 31st year as Probate Judge of Etowah County; his was the longest tenure of any person ever elected to the post, evidencing the extraordinary trust and regard in which he was held by the citizens of Etowah County; and

WHEREAS, Judge Hickman, who was a past president of the Alabama Judge of Probate Association, also played an active role in authoring the present Canons of Judicial Ethics; he further was active in the affairs of the First Baptist Church where he was a Bible class teacher for some 24 years; and

WHEREAS, he also was widely renowned as one of our State's most loyal Democrats, having served as Alabama's National Democratic Committeeman from 1981 through 1983 and as a member of the State Democratic Executive Committee for 18 years; and

WHEREAS, Judge Wiley Hickman was indeed a beloved member of his community whose positive influence in many areas transcended local bounds to a position of statewide and even national prominence; and

WHEREAS, Judge Hickman's sense of humor and keen wit were qualities which endeared him to all, placing him in great demand as a public speaker and, furthermore, earning him the honor of being named State Grand Orator, Alabama Blue Lodge Masons, in 1968; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in deeply shared sorrow with his family and many, many friends, we grievously mourn the death of Judge Wiley Hickman of Gadsden, Alabama, an exemplary public servant and a truly distinguished Alabamian.

BE IT FURTHER RESOLVED, That copies of this resolution be provided for his beloved wife, Mrs. Doris Hickman, for his son

and daughter, and other family members that they may know of our sadness and deep regret in the loss to us all of Judge Wiley Hickman.

Approved April 10, 1984

Time: 1:05 P.M.

Act No. 84-139

H.J.R. 168—Reps. Rains, Coleman

### HOUSE JOINT RESOLUTION

COMMENDING MR. LOWELL GALLOWAY, PROMINENT ALBERTVILLE, ALABAMA, BANKER.

WHEREAS, Mr. Lowell Galloway, who recently joined Albertville National Bank as vice president and loan officer, is a prominent area banker who previously worked for finance and banking institutions in Georgia, and with Albertville Central Bank immediately prior to his current association; and

WHEREAS, Mr. Galloway, a Geraldine native and a graduate of Geraldine High School, also is a graduate of Auburn University and attended a number of banking schools and seminars; he holds basic and standard certificates from the American Institute of Banking and is a 1981 inclusion in Outstanding Young Men of America; and

WHEREAS, he is a member of several professional organizations, including Young Bankers Association and the American Institute of Banking, and is associated as well with such civic and community organizations as the Albertville Rotary Club, Auburn Alumni Association and the First Baptist Church in Albertville; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Mr. Lowell Galloway of Albertville, Alabama, for outstanding professional achievement and community involvement.

BE IT FURTHER RESOLVED, That in token of our sincere regard, a copy of this resolution shall be forwarded to Mr. Galloway.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-140

H.J.R. 169—Reps. Rains, Coleman, Adams,

Albright, Bachus, Beers,  
 Biddle, Black, Blake,  
 Blakeney, Boles, Bowling,  
 Box, Brakefield, Britnell,  
 Brooks, Browder, Bryant,  
 Bugg, Burke, Buskey (James),  
 Buskey (John), Butler,  
 Campbell, Carothers, Carter,  
 Clark (D), Clark (J), Clark  
 (W), Coburn, Cosby, Crow,  
 Davis, Drake, Dutton, Escott,  
 Faulk, Flowers, Ford, Fuller,  
 Gaston, Goodwin, Gray,  
 Grayson, Grimsley, Grouby,  
 Hall, Hammett, Harper,  
 Harvey, Hettinger, Holley,  
 Holmes, Hooper, Horn,  
 Johnson (RG), Johnson (Roy),  
 Junkins, Kennedy, Kvalheim,  
 Laird, Lauderdale, Lindsey,  
 McDowell, McKee, McMillan,  
 McNair, Marietta, Martin,  
 Mathis, Melton, Mikell,  
 Mitchell, Moore, Newman,  
 Nicholson, Onderdonk,  
 Parker, Payne, Penry, Perdue,  
 Poole, Pratt, Preuitt, Reed,  
 Rice, Richardson, Rogers,  
 Sasser, Seibels, Smith, Spratt,  
 Starkey, Starr, Tanner,  
 Thomas, Trammell, Turner,  
 Turnham, Venable, Warren,  
 White (F), White (G), White  
 (L), Zoghby

## HOUSE JOINT RESOLUTION

COMMENDING FORMER REPRESENTATIVE PHIL KELLEY FOR OUTSTANDING SERVICE TO THE ALABAMA LEGISLATURE.

WHEREAS, Mr. Phil Kelley of Guntersville served the State of Alabama as Representative from House District 26 from 1974 to 1982; and

WHEREAS, Representative Kelley's legislative tenure was marked in its accomplishment, and his abilities were recognized through assignment to such important committees as State Admin-

istration which he chaired, Conservation, Commerce and Transportation and Local Legislation Number One; and

WHEREAS, Mr. Kelley, among other singular achievements, is to be commended for his active and instrumental role in the passage of the Housing Finance Authority Act of the 1980 Legislature; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend and express deep gratitude to Representative Phil Kelley for outstanding service to both House District 26 and Marshall County, and to the entire State of Alabama as well,

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to our distinguished former colleague, Representative Phil Kelley, in small token of our sincere appreciation and regard.

Approved April 10, 1984

Time: 1:10 P.M.

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Act No. 84-141

H.J.R. 173—Reps. Smith, Starr

### HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF MRS. FRANCES ELIZABETH LITTLE OF MONTGOMERY, ALABAMA.

WHEREAS, the Legislature of Alabama grievously notes the untimely death of Mrs. Frances Elizabeth Little of Montgomery, Alabama, on March 24, 1984, at the early age of just 49 years; and

WHEREAS, Mrs. Little was a longtime and exemplary employee of the State of Alabama; at the time of her death, she was serving as administrative assistant to the director of the State Budget Office, her department of employment for the past 30 years; and

WHEREAS, in both length of service and in highest capability, Mrs. Little was accepted by her peers and co-workers as dean of that office, and through close association and service to this Legislature, became our personal friend and one whose friendship we valued most highly; and

WHEREAS, Mrs. Little is survived by her beloved husband, Mr. Elgin Little; her son, David, to whom she was devoted; a sister and three brothers; and other family members whose sorrow we deeply share; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA,

**BOTH HOUSES THEREOF CONCURRING**, That we are deeply saddened by the death of Mrs. Frances Elizabeth Little of Montgomery, Alabama, and direct that her family receive copies of this resolution, expressing our deep sorrow in their loss and the personal grief that also is ours.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-142

H.J.R. 174—Rep. Smith

### HOUSE JOINT RESOLUTION

**COMMENDING JEMISON HIGH SCHOOL'S GIRLS BASKETBALL TEAM, RUNNER-UP FOR THE STATE 2-A CHAMPIONSHIP.**

**WHEREAS**, the Alabama Legislature most highly commends and extends heartiest congratulations to the Lady Panthers of Jemison High School on their outstanding 1983-84 basketball season; and

**WHEREAS**, under the direction and leadership of Head Coach Rhonda Jones, the Lady Panthers—Stephanie Bowling, Jada Ellison, Leighsa Robinson, Susan Smith, Veronica Oliver, Tami Oliver, Vicki Lee, Ginger Cost and Tshiluba Thomas—ended their regular season schedule with a fantastic 17-3 record, finishing 22-4, overall, following regional and state competition; and

**WHEREAS**, as Area 7 Champions, Jemison beat Holy Family 74-36, and Chelsea, 72-41, to claim the Region 4 Title and the Lady Panthers then downed Saint Clair 69-48; and

**WHEREAS**, in the intra-regional quarter finals, Coach Jones' cagers beat Autaugaville by a score of 53 to 42, and won the semi-finals against Dale County, 55-37, before losing to the Winfield 2-A Champions in the State finals; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING**, That we hereby most highly commend Coach Rhonda Jones and her Jemison High School Lady Panthers on their spectacular 1983-84 basketball season.

**BE IT FURTHER RESOLVED**, That a copy of this resolution be forwarded to the Coach and team with a copy also provided for appropriate display at Jemison High School.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-143

H.J.R. 175—Rep. Hooper

## HOUSE JOINT RESOLUTION

COMMENDING MR. JOHN STOWERS, JUNIOR, OF MONTGOMERY, ALABAMA.

WHEREAS, Mr. John Stowers, Junior, though a successful Montgomery businessman, also is a prominent area civic leader who has contributed greatly in numerous areas of community concern; and

WHEREAS, Mr. Stowers, for a number of years, has been most particularly committed to promoting the Alabama Special Olympics; and

WHEREAS, it has been primarily through the dedicated efforts of Mr. Stowers and other concerned citizens that the Alabama Special Olympics has received national recognition as the outstanding program it has become for our special children; and

WHEREAS, Mr. Stowers recently served as State Swim Meet chairman for the Alabama Special Olympics, a responsibility he undertook with extraordinary patience and love for the cause, giving selflessly of the great demands required of his time; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That united in commendation, we salute Mr. John Stowers, Junior, for outstanding service on behalf of the Alabama Special Olympics.

BE IT FURTHER RESOLVED, That this resolution be permanently and duly recorded and that a copy be forwarded to Mr. Stowers of Montgomery.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-144

H.J.R. 176—Reps. Tanner, Parker, Moore,  
Dutton, Preuitt, Adams,  
Albright, Bachus, Beers,  
Biddle, Black, Blake,  
Blakeney, Boles, Bowling,  
Box, Brakefield, Britnell,  
Brooks, Browder, Bryant,  
Bugg, Burke, Buskey  
(James), Buskey (John),

Butler, Campbell, Carothers,  
 Carter, Clark (D), Clark (J),  
 Clark (W), Coburn, Coleman,  
 Cosby, Crow, Davis, Drake,  
 Escott, Faulk, Flowers, Ford,  
 Fuller, Gaston, Goodwin,  
 Gray, Grayson, Grimsley,  
 Grouby, Hall, Hammett,  
 Harper, Harvey, Hettinger,  
 Holley, Holmes, Hooper,  
 Horn, Johnson (RG),  
 Johnson (Roy), Junkins,  
 Kennedy, Kvalheim, Laird,  
 Lauderdale, Lindsey,  
 McDowell, McKee, McMillan,  
 McNair, Marietta, Martin,  
 Mathis, Melton, Mikell,  
 Mitchell, Newman,  
 Nicholson, Onderdonk,  
 Payne, Penry, Perdue, Poole,  
 Pratt, Rains, Reed, Rice,  
 Richardson, Rogers, Sasser,  
 Seibels, Smith, Spratt,  
 Starkey, Starr, Thomas,  
 Trammell, Turner, Turnham,  
 Venable, Warren, White (F),  
 White (G), White (L),  
 Zoghby

## HOUSE JOINT RESOLUTION

CONGRATULATING MR. AND MRS. ORVILLE W. TANNER OF HARTSELLE, ALABAMA, ON THEIR FORTHCOMING 50TH WEDDING ANNIVERSARY.

WHEREAS, the Legislature of Alabama notes with pleasure the forthcoming Golden Wedding Anniversary on October 14, 1984, of Mr. and Mrs. Orville W. Tanner of Hartselle, Alabama; and

WHEREAS, Mr. Tanner and his wife, Mrs. Mabel L. Tanner were united in marriage by the Reverend Pickens on October 14, 1934, in the parsonage of Southside Baptist Church in Decatur; following the ceremony, Mr. and Mrs. Tanner, who were 24 and 21 years of age respectively, left for their wedding trip to scenic Athens, Alabama; and

WHEREAS, later moving to Hartselle, Mr. and Mrs. Tanner became the parents of four sons—Billy Charles, Orville Joe, Thomas

Jeff and John F. Tanner; they also are the grandparents of seven grandchildren—Terry, Billy, Blake, Tonja, Jeff, Junior, Kristin Nichole and John F., Junior; and

WHEREAS, Mr. and Mrs. Tanner, who attend the First Baptist Church of Hartselle, have lived their lives as one and, in devotion each to the other, have remained steadfastly faithful to their marriage vows, setting an enviable example for others; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with family and friends in congratulating this exemplary Morgan County couple, Mr. and Mrs. Orville W. Tanner, and direct that they receive a copy of this resolution that they may know of our congratulations and sincere best wishes for every future happiness together.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-145

H.J.R. 177—Reps. Hettinger, Butler,  
Grayson, Brooks, Hall,  
Albright

### HOUSE JOINT RESOLUTION

COMMENDING THE UNIVERSITY OF ALABAMA-HUNTSVILLE CHARGERS' ICE HOCKEY ACCOMPLISHMENTS.

WHEREAS, the Legislature of Alabama expresses deep personal pride and pleasure in the outstanding accomplishments of the University of Alabama-Huntsville Chargers who are to be credited for their instrumentality in establishing ice hockey as the largest drawing indoor sport in North Alabama; and

WHEREAS, under Coach Doug Ross and Assistant Coach Rob Lindsay, the Chargers have captured their third consecutive U. S. Club Hockey National Championship Title with a 27-4-0 record and, by virtue of an 18-0-0 record, won the Central States Collegiate Hockey Association Season Championship; and

WHEREAS, this body, in praise of the Chargers, also must note that UAH provides no scholarships or financial aid whatsoever for its players and those who have achieved on behalf of their university and through love of the sport are team members: Frank Heller, Scott Campbell, Andy Crossett, Dan Dorothy, Mike Finn, Randy Johnson, Jon Jones, John Buscemi, Tom O'Dwyer, Kevin Mills, Andy Gilbert, Mike Dalton, Brian Kelly, Kevin Monaco, Mark



Rogers, Gentry Ellis, Drew Crow, Terry Conway, Dave Wallenstien, Brian Butcher, Will Hereford, Bob Quaile, Scott Dalton, Winston Walker, Steve Moerner, Jim Mitchell and Barry Friedman; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein express highest commendation of the University of Alabama-Huntsville Chargers for their numerous and extraordinary accomplishments; we further most heartily congratulate the team, coaches and staff and direct that copies of this resolution be forwarded to the University of Alabama-Huntsville for appropriate bestowal.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-146

H.J.R. 179—Reps. Gaston, Kvalheim

### HOUSE JOINT RESOLUTION

COMMENDING MISS PAULETTE LOUISE MCKELLAR OF MOBILE, ALABAMA, 1983 ALL-AMERICAN CHEERLEADER.

WHEREAS, the Alabama Legislature most highly commends and extends heartiest congratulations to Miss Paulette Louise McKellar of Mobile, Alabama, who has been selected by the National Cheerleader Association as an All-American Cheerleader for 1983; and

WHEREAS, Miss McKellar, the daughter of Mr. and Mrs. Paul C. McKellar and a student at Davidson High School, has also participated as a cheerleader at both the Aloha Bowl in Honolulu, Hawaii, and the Senior Bowl in Mobile; and

WHEREAS, in addition to her accomplishments as a cheerleader for the past four years, Miss McKellar has further excelled in numerous school related and extra-curricula activities; she ranks in the top 10% of her senior class and is a member of the Student Council and the National Honor Society; and

WHEREAS, Miss McKellar, four times voted Class Favorite and Miss Davidson High School for 1983-84, has been honored as well as Key Club Favorite at Davidson High; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby express highest praise and commendation of Miss Paulette Louise

McKellar as All-American Cheerleader for 1983; we further congratulate her on her numerous other accomplishments and direct that she receive a copy of this resolution in token of our esteem.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-147

H.J.R. 117—Reps. Laird, Fuller

### HOUSE JOINT RESOLUTION

**COMMENDING MR. W. O. LANCE OF LANETT, PROMINENT ALABAMA EDUCATOR.**

WHEREAS, in commendation of his outstanding career, the Alabama Legislature notes the impending retirement, July 1, 1984, of Mr. W. O. Lance as Superintendent of the Lanett City School System; and

WHEREAS, Mr. Lance's 35-year career as an Alabama educator has been one of considerable distinction, but his 21-year tenure in Lanett has been most particularly notable; and

WHEREAS, after 7 years as high school principal, Mr. Lance became Superintendent of the Lanett City Schools, his retirement position, and during these past 14 years the system has steadily progressed under his leadership; and

WHEREAS, Mr. Lance, possessed of outstanding administrative ability, also is a man of high ideals and his concern for the individual student will clearly most favorably influence the Lanett Community for many years to come; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we herein express highest commendation of Mr. W. O. Lance of Lanett, Alabama; we further voice gratitude for the dedication of his service in the field of education and direct that he receive a copy of this resolution in token of our sincere regard.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-148

H.J.R. 118—Reps. Mitchell, Poole, Melton,  
Brakefield, Johnson (Roy)

### HOUSE JOINT RESOLUTION

**COMMENDING MR. JERRY BELK OF TUSCALOOSA, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.**

WHEREAS, Mr. Jerry Belk of Tuscaloosa, Alabama, is a United States Army veteran who served as an infantry platoon leader in Germany during 1955-56; he is a graduate of the University of Alabama, received the M.A. degree in 1958, and completed 65 hours beyond the Masters degree level; and

WHEREAS, Mr. Belk served eight years as physical education teacher and coach at Holt High School in Tuscaloosa County, and was director of the Tuscaloosa Parks and Recreation Department from 1966-69; and

WHEREAS, for the past 15 years, he has served as Director of the Tuscaloosa County Park and Recreation Authority, during which time and under his leadership P.A.R.A. not only has experienced phenomenal growth, but has changed from a city to a county wide department encompassing three local governments; and

WHEREAS, the Authority has further established short and long range master plans for development, initiated joint school use agreements, enjoyed enormous growth in the operating budget and has established a public relations program; and

WHEREAS, in addition to P.A.R.A., Mr. Belk also has assumed a position of leadership in such capacities as past president of the Tuscaloosa Heart Fund, Tuscaloosa Exchange Club, and Tuscaloosa County Crippled Children's Society; and

WHEREAS, other areas of involvement include the Tuscaloosa Chamber of Commerce, United Fund, University of Alabama Recreation Committee and the City P.T.A. Council, among numerous others; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend highest praise of Mr. Jerry Belk's dedicated leadership of the Tuscaloosa County Park and Recreation Authority; we further commend him most highly for outstanding community service and direct that a copy of this resolution be forwarded to Mr. Belk in token of our regard.

Approved April 10, 1984

Time: 1:10 P.M.

## HOUSE JOINT RESOLUTION

COMMENDING MRS. ALFRED F. DELCHAMPS, JUNIOR,  
MOBILE'S FIRST LADY FOR 1983.

WHEREAS, it is in pleased concurrence that the Legislature of Alabama notes the selection of Mrs. Alfred F. Delchamps, Junior, as Mobile's First Lady for 1983, a prestigious designation of the Mobile City Council of Beta Sigma Phi; and

WHEREAS, Mrs. Delchamps, who was cited for extraordinary community achievement and involvement, has indeed distinguished herself through association, leadership and service in numerous areas of civic and community concern; and

WHEREAS, a former president of both the Historic Mobile Preservation Society and Oakleigh Garden Society, Mrs. Delchamps currently serves as president of the Mobile Arts Council and is chairman of the Arts and Recreation Committee, 1984 Class of Leadership Mobile; and

WHEREAS, she further is a founding charter member of Historic Mobile Homes Tours, is a member of the Mobile Historical Preservation Authority and is a member of the board of directors of Friends of the Museum of the City of Mobile; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with the citizens of Mobile in expressing gratitude to Mrs. Alfred F. Delchamps, Junior, for extraordinary accomplishment; we further congratulate Mrs. Delchamps as Mobile's First Lady for 1983 and direct that she receive a copy of this resolution in expression of the Legislature's commendatory regard.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-150

H.J.R. 120—Reps. Gaston, Kvalheim

## HOUSE JOINT RESOLUTION

COMMENDING ALABAMA NATIONAL GUARD OFFICERS TERRY AND MARY CARTER.

WHEREAS, in unique capacity, Alabama National Guard Officers Terry and Mary Carter are the only husband and wife to hold field grade rank in the Guard; and

WHEREAS, further, both Major Terry Carter and Major Mary

Carter are members of the 226th Theatre Army Support Group in Mobile, Alabama; and

WHEREAS, at the age of 21, Major Mary Carter, who holds the B.S. degree in biochemistry and the M.S. degree in business management, commanded a WAC company at Fort Benning, Georgia; she also commanded the first company of Eskimo women to undergo basic training at Fort Richardson, Alaska, and has served additionally as executive officer to the Director of the National Guard Bureau; and

WHEREAS, Major Terry Carter, who has a B.S. degree in finance, is a former bank executive and property manager for the Mitchell Company; his commission was earned through the Alabama Military Academy and his current position with the Guard is that of director of the quality control office at the 226th TAS Group; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein most highly commend Majors Terry and Mary Carter of Mobile, Alabama, for outstanding achievement; we further congratulate the Carters as the Alabama National Guard's only husband and wife team to serve as field grade officers and direct that they receive a copy of this resolution as a token of our sincere admiration and regard.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-151

H.J.R. 121—Reps. McMillan, Penry

### HOUSE JOINT RESOLUTION

COMMENDING MR. ALBERT M. PHILIPS OF SILVERHILL, ALABAMA.

WHEREAS, Mr. Albert M. Philips, though a native of Gorman, South Dakota, has been a resident of Silverhill in Baldwin County, Alabama, since 1924; and

WHEREAS, through the years, Mr. Philips was variously employed as a road equipment operator; as an employee of both the telephone and electric companies; and as a postal employee who was appointed Postmaster in 1936, serving until his retirement in 1972 for a total of 36 years in said responsible capacity; and

WHEREAS, Mr. Philips further was elected to the Silverhill

Town Council for three terms; he is a retired deacon of the First Baptist Church of Silverhill, and is a former longtime school trustee and served for 40 years as a trustee for the Silverhill Cemetery Association; and

WHEREAS, for the past 16 years, Mr. Philips has extended his civic and community involvement to include regular visitation to patients confined in local hospitals and rest homes in the area; and

WHEREAS, Mr. Philips, who still resides in the same house he helped build many years ago, married the former Miss Grace Norman and they were the parents of seven children and the grandparents of 19 fine grandchildren; and

WHEREAS, in recognition of his prominence in the community and in gratitude for his many outstanding contributions, Mr. Philips has been named the Town of Silverhill's Citizen of the Year, a designation we today note in highest commendation; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with the citizens of Silverhill, Alabama, in expressing sincere praise of Mr. Albert M. Philips, and direct that he receive a copy of this resolution in token of our utmost regard.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-152

H.J.R. 129—Reps. Nicholson, Brakefield

## HOUSE JOINT RESOLUTION

### COMMENDING WALKER REBELS.

WHEREAS, the Legislature of the State of Alabama has noted with great pride that Walker College on March 7, 1984, won the Alabama State Junior College tournament; and

WHEREAS, this is the sixth State Championship for the Walker College Rebels, including the past two championships; and

WHEREAS, the Rebels have compiled a record of 21-7 under the guidance of Coach Glen Clem — resulted in teamwork and sportsmanship which serves as an inspiration for us all; and

WHEREAS, the Legislature has further noted that Norris Gurley was named the Most Valuable Player in the State Tournament and fellow Rebels Jeff Guthrie, Floyd Calhoun and Eddie Bullock were also named to the all tournament team; now therefore

BE IT THEREFORE RESOLVED BY THE LEGISLATURE OF THE STATE OF ALABAMA WITH BOTH HOUSES THEREOF CONCURRING, That we most highly commend and congratulate Glen Clem and the Walker College Rebels on their achievements and further wish them good luck and success in the NJCAA Tournament; and

BE IT FURTHER RESOLVED, That Walker College, Glen Clem, Norris Gurley, Jeff Guthrie, Floyd Calhoun and Eddie Bullock be given copies of this resolution so that they may know of our high regard and best wishes.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-153

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H.J.R. 130—Reps. Bowling, Adams, Albright, Bachus, Beers, Biddle, Black, Blake, Blakeney, Boles, Box, Brakefield, Britnell, Brooks, Browder, Bryant, Bugg, Burke, Buskey (James), Buskey (John), Butler, Campbell, Carothers, Carter, Clark (D), Clark (J), Clark (W), Coburn, Coleman, Cosby, Crow, Davis, Drake, Dutton, Escott, Faulk, Flowers, Ford, Fuller, Gaston, Goodwin, Gray, Grayson, Grimsley, Grouby, Hall, Hammett, Harper, Harvey, Hettinger, Holley, Holmes, Hooper, Horn, Johnson (RG), Johnson (Roy), Junkins, Kennedy, Kvalheim, Laird, Lauderdale, Lindsey,

McDowell, McKee,  
 McMillan, McNair,  
 Marietta, Martin,  
 Mathis, Melton,  
 Mikell, Mitchell,  
 Moore, Newman,  
 Nicholson, Onderdonk,  
 Parker, Payne, Penry,  
 Perdue, Poole, Pratt,  
 Preuitt, Rains, Reed,  
 Rice, Richardson,  
 Rogers, Sasser,  
 Seibels, Smith, Spratt,  
 Starkey, Starr,  
 Tanner, Thomas,  
 Trammell, Turner,  
 Turnham, Venable,  
 Warren, White (F),  
 White (G), White (L),  
 Zoghby

#### HOUSE JOINT RESOLUTION

**MOURNING THE DEATH OF MR. FINIS EWING ST. JOHN, JUNIOR, OF CULLMAN, ALABAMA.**

WHEREAS, the Legislature of Alabama, in deep sadness and regret, records the death of Mr. Finis Ewing St. John, Junior, of Cullman, Alabama, on March 6, 1984, at the age of 74 years; and

WHEREAS, a native and lifelong resident of Cullman and the son of Finis Ewing and Nellie Maude Fuller St. John, Mr. St. John, Jr., was a distinguished Alabama jurist who served in the Alabama Legislature, as had his father before him; Mr. St. John represented Blount, Cullman and Winston Counties, Alabama's Third Senatorial District, during the administrations of Governors Dixon and Sparks; and

WHEREAS, Mr. St. John, who was a graduate of Marion Military Institute, received his pre-law education at Howard College; he graduated from the University of Alabama School of Law with the LL.B. degree in 1931, and since that time had been engaged in the private practice of law in Cullman; and

WHEREAS, Mr. St. John's prominence in the State of Alabama was reflected in the considerable extent of his professional involvement, in his activities within the business community and through his commitment to church and civic affairs; and

WHEREAS, he was a former president of Improved Savings



and Loan Association, now First Federal, and was a director of Parker Bank; he further was a member and past president of the Cullman Bar Association and was a member of both the Alabama and American Bar Associations, the American Judicature Society, and had been distinguished as a Fellow of the American College of Trial Lawyers; and

WHEREAS, Mr. St. John was a communicant of Grace Episcopal Church of Cullman and was a member and past president of the Cullman Kiwanis Club; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Mr. Finis Ewing St. John, Junior, of Cullman, Alabama, and extend our very deepest and personal sympathy to his beloved wife, Mrs. Mary Jackson St. John; to their two sons, Senator Finis E. St. John, III, and Mr. Warren J. St. John; to their five grandchildren and other family members.

BE IT FURTHER RESOLVED, That copies of this resolution be provided for Mr. St. John's family, whose sorrow we truly share and for whom we express our most heartfelt concern.

Approved April 10, 1984

Time: 1:10 P.M.

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Act No. 84-154

H.J.R. 138—Reps. Tanner, Moore

### HOUSE JOINT RESOLUTION

COMMENDING MR. J. E. "NED" BEARDEN, PROMINENT SHELBY COUNTY DAIRYMAN AND CIVIL LEADER.

WHEREAS, Mr. J. E. "Ned" Bearden, in partnership with his father, established a dairy in Shelby County in 1929; he later assumed sole ownership of the small dairy operation which now is a highly profitable business and one in which he still is active; and

WHEREAS, as years passed and business demands lessened, Mr. Bearden began to assume numerous responsibilities in the areas of civic and community affairs and was recently recognized for his involvement with the naming of the Pelham High School football stadium in his honor; and

WHEREAS, he served for 20 years as a member of the board of directors of Consolidated Dairies and of the Federal Land Bank, as president of Shelby County Farm Bureau for 12 years, and was a director of the First Bank of Alabaster until 1967 at which time he

was elected president and chairman of the board, a position he holds to date; and

WHEREAS, Mr. Bearden further was an elected member of the Shelby County Board of Education from 1957 to 1969 and the Shelby County Commission from 1969 to 1981; he has been a trustee at Helena School and was 1980 Shelby County Division Chairman for United Way; and

WHEREAS, his numerous awards and honors include Civitan Citizen of the Year and Birmingham Area Chamber of Commerce Man of the Year in agribusiness, as well as a number of other prestigious recognitions; his family also was selected 1963 Master Farm Family by the Progressive Farmer; and

WHEREAS, Mr. Bearden is a Mason and a Shriner, a charter member of Central Civitan Club, and is a member of the Riverchase Church of Christ, serving currently as an Elder; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein most highly commend Mr. J. E. "Ned" Bearden for outstanding community service and involvement, and direct that he receive a copy of this resolution in expression of our sincere warm praise and esteem.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-155

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H.J.R. 140—Reps. Turnham, Rains,  
 Adams, Albright,  
 Bachus, Beers, Biddle,  
 Black, Blake,  
 Blakeney, Boles,  
 Bowling, Box,  
 Brakefield, Britnell,  
 Brooks, Browder,  
 Bryant, Bugg, Burke,  
 Buskey (James),  
 Buskey (John), Butler,  
 Campbell, Carothers,  
 Carter, Clark (D),  
 Clark (J), Clark (W),  
 Coburn, Coleman,  
 Cosby, Crow, Davis,  
 Drake, Dutton, Escott,  
 Faulk, Flowers, Ford,  
 Fuller, Gaston,

Goodwin, Gray,  
 Grayson, Grimsley,  
 Grouby, Hall,  
 Hammett, Harper,  
 Harvey, Hettinger,  
 Holley, Holmes,  
 Hooper, Horn,  
 Johnson (RG),  
 Johnson (Roy),  
 Junkins, Kennedy,  
 Kvalheim, Laird,  
 Lauderdale, Lindsey,  
 McDowell, McKee,  
 McMillan, McNair,  
 Marietta, Martin,  
 Mathis, Melton,  
 Mikell, Mitchell,  
 Moore, Newman,  
 Nicholson, Onderdonk,  
 Parker, Payne, Penry,  
 Perdue, Poole, Pratt,  
 Preuitt, Reed, Rice,  
 Richardson, Rogers,  
 Sasser, Seibels, Smith,  
 Spratt, Starkey, Starr,  
 Tanner, Thomas,  
 Trammell, Turner,  
 Venable, Warren,  
 White (F), White (G),  
 White (L), Zoghby

#### HOUSE JOINT RESOLUTION

COMMENDING MRS. LENA F. (LEE) CANNON FOR OUT-  
 STANDING SERVICE WITH THE ALABAMA COOPERATIVE  
 EXTENSION SERVICE AND ALABAMA PUBLIC  
 TELEVISION.

WHEREAS, with highest commendation for outstanding service, the Alabama Legislature notes the recent retirement of Mrs. Lena F. (Lee) Cannon as a specialist in home economics for the Alabama Cooperative Extension Service and Alabama Public Television since 1955; and

WHEREAS, during said exemplary tenure, Mrs. Cannon served for 23 years as associate producer and hostess for APT at Auburn University; her TV experience involved total responsibility for and presentation of weekly programs on the statewide network including

Today's Home, which was the longest running home show on any educational TV network in the nation, as well as Dixie Digest and a television series, The Best For Us; and

WHEREAS, Mrs. Cannon, who holds the B.S. and M.S. degrees in home economics from West Virginia University, also studied on the post graduate level at the University of Wisconsin; and

WHEREAS, her other professional experience includes some 20 years as an assistant professor in the School of Home Economics at Auburn University and she has served by appointment on the Governor's Commission on Aging and as a member of the commission's board of directors; and

WHEREAS, Mrs. Cannon also is a multi-published author of numerous books and articles, and she has participated in a number of seminars, meetings and other professional events; and

WHEREAS, she is a member of the Alabama and American Home Economics Associations, American Women in Radio and Television, Women in Communications and the International Platform Association; she further has served in high office and other leadership capacity of the Auburn University Club and the Womens Division of the Alabama Dairy Products Association, among others; and

WHEREAS, Mrs. Cannon is the recipient of an inordinate number of awards and honors including listings in Who's Who in American Women, Personalities of the South, Alabama's Distinguished, Dictionary of International Biography and 2000 Women of Achievement; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Mrs. Lena F. (Lee) Cannon for outstanding achievement and direct that she receive a copy of this resolution in small token of our utmost regard.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-156

H.J.R. 141—Reps. Rains, Carter

### HOUSE JOINT RESOLUTION

COMMENDING MR. THOMAS Z. ATKESON OF DECATUR, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, Mr. Thomas Z. Atkeson of Decatur, Alabama has been employed for more than four decades with the Wheeler Na-

tional Wildlife Refuge in Decatur, Alabama, and since 1962, in managerial capacity; and

WHEREAS, Mr. Atkeson, who is a native of Columbia, Alabama, holds the B.S. degree in forestry from the University of Georgia where he graduated Magna Cum Laude; he attended graduate school at Auburn University; and

WHEREAS, he is affiliated with a number of professional organizations and has been recognized both locally and nationally with such distinctions as the Department of the Interior's Meritorious Achievement Medal, Bureau of Sport Fisheries and Wildlife Outstanding Public Service Award, Veteran of the Year Award and has been named Alabama's Conservationist of the Year, among others; and

WHEREAS, Mr. Atkeson also is a United States Army veteran of World War II who was gravely wounded as the result of a mine explosion on October 22, 1943; as a result, he suffered the loss of total sight in both eyes, lost both arms and received numerous other severe and disabling wounds; and

WHEREAS, despite such grave physical limitation, Mr. Atkeson returned to civilian life and his position with the Wildlife Refuge, rendering such dedicated and distinguished service as to be recognized as Outstanding Handicapped Employee of the Year, Handicapped American of the Year Award nominee and he was the inspiration for a feature segment of the CBS Sunday Morning News program; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein express highest commendation of Mr. Thomas Z. Atkeson of Decatur, Alabama, for outstanding achievement; we further stand in tribute to his extraordinary accomplishments and direct that he receive a copy of this resolution, in small token of our deep admiration and esteem.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-157

H.J.R. 144—Reps. Holmes, Buskey (John),  
Hooper, Starr, McKee

### HOUSE JOINT RESOLUTION

HONORING THE CARVER HIGH SCHOOL WOLVERINES,  
STATE 4-A BASKETBALL CHAMPIONS.

WHEREAS, The George Washington Carver High School Head Basketball Coach, Dan Lewis, during a five year tenure at Carver, has compiled a staggering record of one hundred and twelve victories and forty-two losses, two State 4-A Basketball Championships, has been voted by Sports Writers as State Coach of the Year, 1982-83 and also 1983-84, was four times named Coach of the Year by the Montgomery Advertiser and Alabama Journal; and

WHEREAS, the George Washington Carver High School Wolverines of Montgomery won the Alabama High School Athletic Association's 4-A State Basketball Championship for 1982-83 and again for 1983-84; and

WHEREAS, the Carver Wolverines, ranked Number One in the State of Alabama by the Associated Press for six weeks in 1982-83, were also ranked Number Three for 1983-84; and

WHEREAS, The George Washington Carver High School Basketball team won thirty-one games, losing only three, for the best 4-A record in 1982-83, and won thirty games and lost five for 1983-84, in addition to their back-to-back state titles; and

WHEREAS, The Carver Wolverines, their coaches and student body are indeed due much credit, not only for their great skills and sportsmanship, but also for their fine school spirit and the will to win; and

WHEREAS, The George Washington Carver Wolverines have brought great recognition to the City of Montgomery and its citizens; and

WHEREAS, the Champion Wolverines are: Andre Bruce, Michael Cheatham, Kent Crenshaw, Terrance Jackson, Marshall Johnson, Allen Jones, Chris Jones, Tim Lover, Jeffrey McGee, Darryl Morgan, Greg Payne, Clarence Ptomey, Joey Reasor and Clifford Wright; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein most highly commend and congratulate Coach Dan Lewis, Montgomery's George Washington Carver Basketball Team and the entire coaching staff for outstanding achievement.

BE IT FURTHER RESOLVED, That copies of this resolution be presented to Head Coach Dan Lewis, Assistant Coach Samuel George, Athletic Director John Fulgham, Principal Dwight Madison and to the members of The George Washington Carver High School Basketball Team, with a copy also provided for appropriate school display.

Approved April 10, 1984

Time: 1:10 P.M.

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Act No. 84-158

H.J.R. 146—Rep. Rogers

### HOUSE JOINT RESOLUTION

#### COMMENDING OMICRON LAMBDA CHAPTER OF ALPHA PHI ALPHA FRATERNITY.

WHEREAS, the Alabama Legislature notes with utmost commendation the selection of Birmingham's Omicron Lambda Chapter of Alpha Phi Alpha Fraternity as the State of Alabama's "Alumni Chapter of the Year"; and

WHEREAS, this prestigious designation was bestowed upon Omicron Lambda Chapter in recognition of the organization's involvement and participation in numerous community functions and activities; and

WHEREAS, it is further to be noted that Omicron Lambda Chapter, through such commendable service, has played a leadership role in helping the City of Birmingham develop into the great and thriving metropolis that it is today; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Omicron Lambda Chapter of Alpha Phi Alpha Fraternity for outstanding service and contributions to the City of Birmingham; we further congratulate Omicron Lambda as the State of Alabama's "Alumni Chapter of the Year" and direct that a copy of this resolution be forwarded to the membership of said fraternal chapter.

Approved April 10, 1984

Time 1:10 P.M.

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Act No. 84-159

H.J.R. 147—Rep. Flowers

### HOUSE JOINT RESOLUTION

#### MOURNING THE DEATH OF STATE CONSERVATION OFFICER GRADY RUSSELL JACKSON.

WHEREAS, in deep sadness and regret, the Legislature of Ala-

bama records the death of Mr. Grady Russell Jackson of Troy, Alabama, on February 11, 1984, at the age of 61 years; and

WHEREAS, it is to be noted that Mr. Jackson, an exemplary state employee, died while on duty in Pike County in his capacity as State Conservation Officer; and

WHEREAS, Mr. Jackson, a native of Madison County, had been with the Department of Conservation and Natural Resources since 1962 and had thus served with dedication and devotion to duty for 22 years, a distinguished tenure which had earned for him the highest regard of his department superiors, co-workers and peers; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of State Conservation Officer Grady Russell Jackson of Troy, Alabama, and extend our very deepest and heartfelt sympathy to his wife, Mrs. Geraldine Jackson, and other family members to whom a copy of this resolution shall be sent in expression of our shared sorrow and of our concern for them in their great and grievous loss.

Approved April 10, 1984

Time: 1:10 P.M.

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Act No. 84-160

H.J.R. 150—Rep. Rains

### HOUSE JOINT RESOLUTION

COMMENDING MR. AND MRS. LUTHER EDGAR BETHUNE ON THEIR 53RD WEDDING ANNIVERSARY.

WHEREAS, the Alabama Legislature notes with pleasure the 53rd Wedding Anniversary, May 25, 1983, of Mr. and Mrs. L. E. (Luke) Bethune of Leeds, Alabama; and

WHEREAS, in the sight of God, Luther Edgar Bethune and Lillian Stephen Johnson were joined in wedlock on May 25, 1930, in Jackson County, Alabama, and these two fine people, forsaking all others, have remained in said Holy state for 53 years; and

WHEREAS, adhering to Biblical admonition, they have lived their lives as one, devoted each to the other, and have been steadfastly faithful to their marriage vows, setting an example to be emulated by young couples who also pledge themselves to one another until parted by death; and

WHEREAS, Mr. and Mrs. Bethune are the parents of three



children and are the loving grandparents of eleven wonderful grandchildren; and

WHEREAS, both Mr. and Mrs. Bethune have been members of the Baptist Church for more than 50 years, currently of Tenbroeck Baptist Church where Mrs. Bethune continues, as always, in a leadership role; her hobbies include needlework, cooking and homemaking in general while Mr. Bethune's interest is basketball, a sport he played for 27 years; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with family and friends in congratulating this exemplary couple of Leeds, Alabama, and wish them many more happy years together in their union blessed by God, and a marriage of Christian dedication and morality.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Mr. and Mrs. Bethune that they may know of our congratulations and warm best wishes.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-161

H.J.R. 151—Rep. Turner

### HOUSE JOINT RESOLUTION

COMMENDING MR. NORMAN H. DAVIS FOR OUTSTANDING SERVICE AS DIRECTOR OF THE MOBILE COUNTY EMERGENCY MANAGEMENT AGENCY.

WHEREAS, on February 1, 1984, Mr. Norman H. Davis retired as Director of the Mobile County Emergency Management Agency, thus concluding a distinguished tenure of some ten years in leadership capacity of MCEMA, formerly Civil Defense; and

WHEREAS, Mr. Davis, whose accomplishments have received national as well as local recognition, initiated reorganizational efforts of the agency which greatly improved the staff's preparedness and response to disaster situations; and

WHEREAS, under Mr. Davis' leadership, for example, MCEMA has been directly credited for the minimization of loss of lives and property during Hurricane Frederic; and

WHEREAS, Mr. Davis, who is a native of Louisiana and a graduate of Louisiana State University, also is a veteran of World War II, retired as a Captain following four years' active duty with the

United States Army, two years of which were spent in combat in the Eastern Theatre of Operations; his decorations include both the Silver Star and The Croix de Guerre; and

WHEREAS, prior to Mr. Davis' tenure with the Mobile County Emergency Management Agency, he had been associated variously with the Extension Service, a marketing firm, the Mobile Area Community Action Agency and the County treasurer's office; and

WHEREAS, Mr. Davis is a member of Springhill Presbyterian Church, past president of the Alabama Civil Defense Association, site committee chairman of the U.S. Civil Defense Conference, a former member of the Alabama Public Television Advisory Board, and a member also of the Greater Mobile Industrial Association and the Southwest Alabama Emergency Medical Association; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Mr. Norman H. Davis for outstanding accomplishment; we further wish him every continuing success in all future endeavors and direct that he receive a copy of this resolution, in expression of our utmost regard.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-162

H.J.R. 152—Reps. Carothers, Grimsley,  
Mathis

### HOUSE JOINT RESOLUTION

COMMENDING DOTHAN HIGH SCHOOL BAND AND DIRECTORS, TONY AND RHONDA WHETSTONE.

WHEREAS, the Dothan High School Band, under the direction and leadership of Tony and Rhonda Whetstone for the past three years, has excelled in its accomplishments; and

WHEREAS, in 1982, the band received superior ratings in the District Contest in Troy and the State Contest; and

WHEREAS, in 1983, the band received superior ratings in the District and State Contests and the Central Alabama Marching Festival and the Southeastern States Marching Festival; and

WHEREAS, during the past three years, Dothan High School Band Students have participated in the All-State Band; and

WHEREAS, for the past two years, students from the band

have participated in the Alabama Bandmasters Association Reading Band; and

WHEREAS, the band participates annually in the National Peanut Festival Parade; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Dothan High School Band and Directors Tony and Rhonda Whetstone, are hereby commended for their performance and accomplishments.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to the Dothan High School Band for appropriate school display and a copy to Tony and Rhonda Whetstone as tokens of our high praise and esteem.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-163

H.J.R. 153—Reps. Gaston, Kvalheim

### HOUSE JOINT RESOLUTION

COMMENDING BUNNIE E. SUTTON, MOBILE, ALABAMA, FOR HER OUTSTANDING CIVIC AND CHARITABLE CONTRIBUTIONS.

WHEREAS, the Alabama Legislature notes that Mrs. Bunnie E. Sutton, Mobile, Alabama, has devoted her time and talents, to an extraordinary degree, to the Alzheimer's Disease Family Support Group, Inc., and in other areas combating this dread disease; and

WHEREAS, Alzheimer's Disease is the worst of all diseases, not just for what it does to the victim, but for its devastating effect on family and friends financially, physically, mentally, emotionally and socially. We have a moral responsibility to offer support to these people in whatever way we possibly can, especially the primary caregiver; and

WHEREAS, Mrs. Bunnie Sutton currently serves as President of Alzheimer's Disease Family Support Group and is past Publicity Chairman for said organization; and

WHEREAS, Mrs. Bunnie E. Sutton, married to Mr. Shelby A. Sutton and the mother of three daughters is active in the spiritual and religious development of the youth of Cottage Hill Baptist Church and is a prayer partner in the twenty-four hour ministry of the church; and

WHEREAS, Mrs. Bunnie E. Sutton has made immeasurable,

selfless contributions to many other civic organizations and has served as: Assistant City Chairman for the March of Dimes, a member of the Jaycettes for five years and is past Ladies Chairman for the Ten Outstanding Young Men of America in Congress hosted in Mobile; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most highly commend Mrs. Bunnie E. Sutton for her dedicated work to overcome the battle for life of victims with Alzheimer's Disease and for their families, and her many other efforts to improve the lot of her fellowman.

BE IT FURTHER RESOLVED, That a copy of this resolution shall be sent to Mrs. Bunnie E. Sutton so that she may know of our high regard.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-164

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H.J.R. 143—Reps. White (F), Adams, Albright, Bachus, Beers, Biddle, Black, Blake, Blakeney, Boles, Bowling, Box, Brakefield, Britnell, Brooks, Browder, Bryant, Bugg, Burke, Buskey (James), Buskey (John), Butler, Campbell, Carothers, Carter, Clark (D), Clark (J), Clark (W), Coburn, Coleman, Cosby, Crow, Davis, Drake, Dutton, Escott, Faulk, Flowers, Ford, Fuller, Gaston, Goodwin, Gray, Grayson, Grimsley, Grouby, Hall, Hammett, Harper, Harvey, Hettinger, Holley, Holmes, Hooper, Horn, Johnson (RG), Johnson (Roy), Junkins, Kennedy, Kvalheim,

Laird, Lauderdale,  
 Lindsey, McDowell,  
 McKee, McMillan,  
 McNair, Marietta,  
 Martin, Mathis, Melton,  
 Mikell, Mitchell, Moore,  
 Newman, Nicholson,  
 Onderdonk, Parker,  
 Payne, Penry, Perdue,  
 Poole, Pratt, Preuitt,  
 Rains, Reed, Rice,  
 Richardson, Rogers,  
 Sasser, Seibels, Smith,  
 Spratt, Starkey, Starr,  
 Tanner, Thomas,  
 Trammell, Turner,  
 Turnham, Venable,  
 Warren, White (G),  
 White (L), Zoghby

#### HOUSE JOINT RESOLUTION

##### MOURNING THE DEATH OF MR. JAMES McCOY MAYS OF ATMORE, ALABAMA.

WHEREAS, the Alabama Legislature notes with deep regret the death of Mr. James McCoy Mays of Atmore, Alabama, on March 5, 1984, at the age of 72 years; and

WHEREAS, Mr. "Mac" Mays, as he was widely and affectionately known, was a native of Hamilton, Alabama; he was a graduate of Birmingham Southern College with the B.S. degree and received the Master's degree from Auburn University; and

WHEREAS, Mr. Mays, who was a retired teacher and a former longtime Atmore merchant, served in the Alabama Legislature from 1966 to 1970, representing Escambia County, House District Thirty-nine; and

WHEREAS, though active in a number of civic and community affairs, Mr. Mays was most particularly committed in service to the First United Methodist Church where he was faithful in attendance and had served as a member of numerous church boards and committees; and

WHEREAS, the death of Mr. Mac Mays has indeed left a deep void in the community and in the hearts of all those whose lives he touched; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA,

**BOTH HOUSES THEREOF CONCURRING,** That we are grievously saddened by the death of Mr. James McCoy Mays of Atmore, Alabama, and extend our very deepest sympathy to his beloved wife, Mrs. Edith Cruit Mays, to their two sons, Robert William and James Cruit Mays, and other family members to whom a copy of this resolution shall be sent in expression of our shared sorrow in their great loss.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-165

S.J.R. 117—Senator Little

### SENATE JOINT RESOLUTION

**MOURNING THE DEATH OF MR. CYRUS E. NEWMAN,  
PROMINENT ALABAMA CONSERVATIONIST.**

**WHEREAS,** it is with deep sadness and regret that the Alabama Legislature records the death of Mr. Cyrus E. Newman of Auburn, Alabama, on February 29, 1984; and

**WHEREAS,** Mr. Newman, who retired in 1960 as Assistant State Conservationist for the USDA Soil Conservation Service, was a native of Goodwater, Alabama, and was a graduate of Auburn University where he was tapped for membership in Phi Kappa Phi and Gamma Sigma Delta national honoraries; and

**WHEREAS,** a former educator and employee of the Alabama Cooperative Extension Service, Mr. Newman joined the SCS staff in 1934, serving in Dadeville and Birmingham prior to being named Assistant State Conservationist for the agency in Auburn; and

**WHEREAS,** in tribute to his expertise and in recognition of distinguished professional service, he was named Outstanding Conservationist of the year for Alabama in 1981, and was named in 1975 as a Fellow of the Soil Conservation Society of America, which is the organization's highest honor conferred on its members; and

**WHEREAS,** Mr. Newman's activities extended further to include longtime involvement and service in numerous civic and community affairs including the First Baptist Church in Auburn, Kiwanis Club of Auburn and the Alabama Sheriffs' Girls' Ranch near Dadeville; and

**WHEREAS,** the death of Mr. Cyrus Newman has indeed left a deep void in the community and in the hearts of all those whose lives he touched and those who so greatly benefitted from his profes-

sional expertise and his many acts of kindness, prompted in genuine concern for others; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Mr. Cyrus E. Newman of Auburn, Alabama, and extend our very deepest sympathy to his beloved wife, Mrs. Mary Emma McThail Newman, and his sister, Mrs. Mary N. Thompson, whose sorrow we share and for whom a copy of this resolution shall be provided.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-166

S.J.R. 119—Senator Teague

### SENATE JOINT RESOLUTION

COMMENDING THE GAMMA OMEGA CHAPTER OF PI KAPPA PHI FRATERNITY AT THE UNIVERSITY OF MONTEVALLO.

WHEREAS, the Brothers of the Gamma Omega Chapter of Pi Kappa Phi Social Fraternity at the University of Montevallo have pledged themselves to raise \$1,000 annually for the national philanthropic project P.U.S.H. (Play Units for the Severely Handicapped); and

WHEREAS, P.U.S.H., which was unanimously adopted by the Fraternity in 1977, is a totally new concept for teaching severely and profoundly handicapped children; and

WHEREAS, Pi Kappa Phi National Fraternity was founded on December 10, 1904, at the College of Charleston in Charleston, South Carolina, and locally at the University of Montevallo on May 8, 1971; and

WHEREAS, the object of this fraternity shall be the promotion of brotherly love, the perfecting of true friendship, the increasing of fraternal feeling and the cultivating of refined and moral ideals among its members; and

WHEREAS, during the year 1983, the Chapter exceeded its pledge by raising \$1,500:

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Brothers of Gamma Omega Chapter of Pi Kappa

Phi at the University of Montevallo be commended for their dedication in raising money for this most worthwhile project.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-167

S.J.R. 127—Senator Little

### SENATE JOINT RESOLUTION

COMMENDING MR. AND MRS. HOBART LOVE ON THE OCCASION OF THEIR 50TH WEDDING ANNIVERSARY.

WHEREAS, the Alabama Legislature notes with pleasure the Golden Wedding Anniversary on February 17, 1984, of Mr. and Mrs. Hobart Love of Alexander City, Alabama; and

WHEREAS, in the sight of God, Hobart Lee Love and his bride, Miss Virginia Burke, were joined in wedlock on February 17, 1934, in Montevallo, Alabama, and these two fine people, forsaking all others, have remained in said Holy state for the past 50 years; and

WHEREAS, adhering to Biblical admonition, they have lived their lives as one, devoted each to the other, and have been steadfastly faithful to their marriage vows, setting an example to be emulated by other couples who, in wedlock, pledge themselves to one another until parted by death; and

WHEREAS, Mr. and Mrs. Love, the parents of two sons and two daughters, are members of the Baptist church which they have served together with devotion throughout their married life, serving their fellow man as well in true charity for the poor, heartbroken and discouraged; they further have been active for the past several years in prison ministry with the Alabama Volunteers in Corrections; and

WHEREAS, to celebrate the joyous occasion of their Golden Wedding Anniversary, Mr. and Mrs. Love were honored at a reception, given by their children and family, on February 11, 1984, at Wayside Baptist Church; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with family and friends in congratulating this exemplary couple of Alexander City, Alabama, Mr. and Mrs. Hobart Love, and wish them many more happy years together in their union blessed by God and a marriage of Christian dedication and morality.



BE IT FURTHER RESOLVED, That Mr. and Mrs. Love receive a copy of this resolution expressing our congratulations and warm best wishes for their future.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-168

S.J.R. 128—Senators Bedsole, Menton and  
Figures

### SENATE JOINT RESOLUTION

COMMENDING DR. WILLIAM K. WEAVER, JUNIOR, OF  
MOBILE, ALABAMA.

WHEREAS, in consensus of commendation, the Alabama Legislature notes the numerous accomplishments of Dr. William K. Weaver, Junior, the founding president of Mobile College in 1961; and

WHEREAS, Dr. Weaver has since served continuously in that capacity, greatly contributing to the progress and growth of the college; although the Legislature notes with regret his announced retirement, it is with highest praise that we recognize his distinguished tenure; and

WHEREAS, we further commend Dr. Weaver upon his most recent distinction as Mobilian of the Year, an honor bestowed by the Civitan Club of Mobile upon selection by a committee of some 120 representatives from various civic, charitable, religious, governmental, professional, business and labor organizations throughout Mobile; and

WHEREAS, Dr. Weaver, a native of Oxford, Alabama, is a graduate of Birmingham's Howard College, of Southern Baptist Theological Seminary and he holds an honorary doctorate of divinity from Howard; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein most sincerely praise and commend Dr. William K. Weaver, Junior, of Mobile, Alabama, for outstanding accomplishment; we further congratulate him as Mobilian of the Year, and direct that he receive a copy of this resolution expressing our warm best wishes for every future success and enjoyment in retirement.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-169

S.J.R. 132—Senators Dixon, Aldridge, Amari, Bailey, Barron, Bedford, Bedsole, Bennett, Bishop, Cabaniss, Cooley, Corbett, Covington, deGraffenried, Denton, Dial, Drinkard, Ellis, Figures, Foshee, Goodwin, Hand, Hilliard, Holmes, Langford, Little, Menton, Mitchem, Parsons, Pearson, Sanders, Smith (B), Smith (J), Strong and Teague

#### SENATE JOINT RESOLUTION

#### MOURNING THE DEATH OF FORMER STATE SENATOR JUNIUS J. (JUNIE) PIERCE OF MONTGOMERY, ALABAMA.

WHEREAS, the Alabama Legislature grievously records the death of Mr. Junius Julius Pierce of Montgomery, Alabama, on February 2, 1984, at the age of 78 years; and

WHEREAS, a native and lifelong resident of Montgomery, Mr. Pierce was a prominent real estate and insurance executive of that city; he was a graduate of Sidney Lanier High School and attended Auburn University, Emory University and the University of Alabama; and

WHEREAS, in addition to his successful business activity, Mr. Pierce also was involved in numerous civic and community affairs, including the Montgomery Lions Club and Trinity Presbyterian Church, among others, which substantially benefitted from his continuing support; and

WHEREAS, he served as vice chairman of the Montgomery Parks and Recreation Board for some seven years and, in 1958, committed himself to further public service through election to the Alabama House of Representatives; following two full terms in that office, Mr. Pierce was elected to the Alabama Senate, to serve two additional terms, and a total of sixteen years in the Legislature; and

WHEREAS, Junie Pierce was indeed a distinguished Alabamian who stood tall among men; he was an honorable and compas-

sionate individual, totally selfless in word, thought and deed, and his presence among us is sorely missed; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we are deeply bereaved in the death of our good friend and former colleague, Mr. Junius J. (Junie) Pierce of Montgomery, Alabama, and extend our very deepest sympathy to his family, whose sorrow also is ours.

**BE IT FURTHER RESOLVED,** That copies of this resolution be provided for Mr. Pierce's family: his wife, Mrs. Hazel Pierce; his daughter, Ann Pierce O'Neal; his son, Junie Pierce, III; and his sister, Mrs. Kate Pierce Cook.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-170

S.J.R. 142—Senator Sanders

### SENATE JOINT RESOLUTION

**COMMEMORATING THE DEATH OF DR. MARTIN LUTHER KING, JR.**

**WHEREAS,** April 4, 1984, marks the 16th anniversary of the death of Dr. Martin Luther King, Jr.; and

**WHEREAS,** despite the passage of time, Dr. King's dreams for equal opportunity and justice for all lives on in the hearts and minds of all Americans; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we today commemorate the anniversary of the death of Dr. Martin Luther King, Jr., and would urge that April 4, 1984, be appropriately observed, throughout the State of Alabama, in memory of Dr. Martin Luther King, Jr.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-171

S.J.R. 45—Senator Cooley

### SENATE JOINT RESOLUTION

**AUTHORIZING THE JOINT LEGISLATIVE INTERIM**

**COMMITTEE TO STUDY THE ALABAMA AERONAUTICS  
COMMISSION TO EMPLOY AN INVESTIGATOR.**

WHEREAS, Act 83-803, S.J.R. 16, of the 1983 Third Special Session of the Alabama Legislature, created a joint interim committee to study the Alabama Aeronautics Commission to investigate all phases and activities of said commission; and

WHEREAS, the Legislature further recognizes the need to employ an investigator in order to investigate such phases and activities of the Alabama Aeronautics Commission; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA,  
BOTH HOUSES THEREOF CONCURRING,** That the Joint Legislative Interim Committee to Study the Alabama Aeronautics Commission is hereby authorized to employ an investigator to investigate and study all phases and activities of the Alabama Aeronautics Commission.

**BE IT FURTHER RESOLVED,** That there is hereby appropriated \$786.96 from the funds available for the legislature to be paid for compensation and expenses for any such investigator employed by said committee.

**BE IT FURTHER RESOLVED,** That the provisions of this Act shall be retroactive to the effective date of Act No. 83-803, S.J.R. 16, of the 1983 Third Special Session of the Alabama Legislature.

Approved April 10, 1984

Time: 4:35 P.M.

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Act No. 84-172

S.J.R. 83—Senator Bailey

**SENATE JOINT RESOLUTION**

**EXPRESSING APPRECIATION TO THE U. S. MARINES  
WHO SERVED IN LEBANON.**

WHEREAS, the United States Marines served in Lebanon to protect the ideals of democracy; and

WHEREAS, the United States Marines served in Lebanon to bring peace to the country of Lebanon; and

WHEREAS, the United States Marines were in Lebanon to protect innocent citizenry of that country; and

WHEREAS, the United States Marines, by serving in Lebanon, risked their lives as our representatives; and

WHEREAS, the United States Marines who served in Lebanon made the sacrifice of leaving their families and loved ones; and

WHEREAS, the United States Marines and U. S. Navy support personnel from the State of Alabama who have given their lives for these very ideals of democracy are: Marine Lance Corporals James Christopher Price, Ferrandy Henderson, William Stelpflug and Jeffrey Todd Hattaway; Marine Corporals Leonard Walker, Terry Hudson, Henry Townsend and Shannon Biddle; Navy Corpsman Jimmy Ray Cain; and Navy Lieutenant John R. Hudson; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That acting upon the request of the fifth and sixth grade students participating in the gifted program of the Dothan City Schools, and acting on behalf of the State of Alabama, we hereby express appreciation to those Americans who served in Lebanon for the aforementioned ideals of democracy that we too often take for granted; we further extend sincerest sympathy to the families of those who gave their lives in the cause of freedom.

BE IT FURTHER RESOLVED, That copies of this resolution be presented to the television stations (WTVY and WDHN), to the press representatives of *The Dothan Eagle* and *The Dothan Progress*, to the Dothan City Commissioners, and to the Dothan Board of Education.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-173

S.J.R. 109—Senator Denton

### SENATE JOINT RESOLUTION

REQUIRING ALL AGENCIES OF THIS STATE AND THEIR POLITICAL SUBDIVISIONS TO PURCHASE ALL ARTICLES AND PRODUCTS NECESSARY BY SUCH AGENCIES FROM THE DEPARTMENT OF CORRECTIONS AS REQUIRED BY TITLE 14, SECTION 7, PARAGRAPH 13.

WHEREAS, present Alabama law requires state agencies and their political subdivisions to purchase office equipment and articles produced by the Department of Corrections, and

WHEREAS, nearly all office equipment and articles can be purchased from the Department of Corrections, and

WHEREAS, inmate labor is utilized in the production of these articles, and

WHEREAS, in many instances these articles are less expensive and of comparable quality as those purchased from outside vendors, and

WHEREAS, the taxpayers of the Great State of Alabama benefit from the lower cost of state office equipment purchases;

NOW THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the various agencies supported in whole or in part by this State shall purchase from the Alabama Department of Corrections all articles or products required by such offices, departments, institutions, agencies or political subdivisions of this State produced or manufactured by the Department of Corrections with the use of inmate labor, as provided and in concurrence with Title 14, Section 7, Paragraph 13.

BE IT FURTHER RESOLVED, That a copy of the resolution be sent to all state agencies that they may know of our legislative support of this requirement.

Approved April 10, 1984

Time: 4:35 P.M.

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Act No. 84-174

S.J.R. 107—Senator Dial

### SENATE JOINT RESOLUTION

#### COMMENDING AND CONGRATULATING CLAY COUNTY HOSPITAL AND NURSING HOME.

WHEREAS, the Joint Commission on Accreditation of Hospitals, a private, non-profit organization which was created by and composed of health care professionals, has inspected Clay County Hospital and Nursing Home; and

WHEREAS, the Joint Commission on Accreditation of Hospitals is governed by representatives of the American College of Surgeons, the American College of Physicians, the American Dental Association, the American Hospital Association and the American Medical Association; and

WHEREAS, the Joint Commission on Accreditation of Hospitals promotes quality health care through establishing high standards, conducting on-site surveys of facilities and awarding accreditation to facilities that meet these standards; and

WHEREAS, these standards are described as "optimal achievable" because they reflect the best of current thinking in the field, with standards revised and developed periodically to keep the level of care consistent with current knowledge, techniques and government regulations; and

WHEREAS, a Joint Committee on Accreditation of Hospitals survey team, including a physician, nurse, hospital administrator, and laboratory technologist, visited and evaluated the performance of Clay County Hospital and Nursing Home in twenty-four different areas, thereupon awarding accreditation to said facility; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we both commend and congratulate Clay County Hospital and Nursing Home on becoming accredited in 1983 by the Joint Commission on Accreditation of Hospitals, and for providing the optimal standard of care for the citizens of Alabama.

Approved April 10, 1984

Time: 1:10 P.M.

Act No. 84-175

S.J.R. 112—Senator Dixon

### SENATE JOINT RESOLUTION

MOURNING THE UNTIMELY AND TRAGIC DEATH OF  
MRS. MURREL LOLLEY RICHMOND.

WHEREAS, the Legislature of Alabama has grievously noted the death of Mrs. Murrel Lolley Richmond of Pleasant Hill, Choctaw County, Alabama, on September 29, 1980; and

WHEREAS, Mrs. Richmond regrettably lost her life when she was struck and killed by a train in Eagleton, Arkansas, while walking with three young children, near a railroad intersection; and

WHEREAS, it is to be noted that Mrs. Murrel Richmond died as a result of her heroic actions in protecting the life of one of the young children in her care; and

WHEREAS, she and two of the youngsters became separated from young five-year-old Samuel Morefield, and Mrs. Richmond dashed across the tracks to prevent the child from crossing to her in front of an approaching train; and

WHEREAS, thus, in an act of uncommon courage, Mrs.

Richmond did unhesitatingly risk her own life to save the life of another; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we deeply grieve in the death of Mrs. Murrel Lolley Richmond, we stand in tribute of her courage and in recognition of her ultimate sacrifice that a young child might live.

BE IT FURTHER RESOLVED, That we extend our most heartfelt sympathy to Mrs. Richmond's family and direct that they receive three copies of this resolution, in original form, that they may know of our great admiration for a courageous lady who died in her attempt to save another's life.

Approved April 10, 1984

Time: 4:35 P.M.

Act No. 84-176

S.J.R. 115—Senator deGraffenried

### SENATE JOINT RESOLUTION

#### MOURNING THE DEATH OF MRS. KATHLEEN McCLAIN LAWSON.

WHEREAS, it is with deep sadness and regret that the Alabama Legislature records the death of Mrs. Kathleen McClain Lawson on March 21, 1984, in Montgomery, Alabama; and

WHEREAS, Mrs. Lawson, a native of Seattle, Washington, had resided in Montgomery for the past fourteen years, since her marriage to Judge Thomas S. Lawson, former State Attorney General and retired Alabama Supreme Court Justice; and

WHEREAS during her Montgomery residency, Mrs. Lawson's interests and involvement encompassed numerous areas of civic, social and community concern; she was an Episcopalian and included among her active affiliations the Iris Garden Club and the Junior Twentieth Century Literary Club; and

WHEREAS, in addition to her husband, she is survived by a daughter, Victoria Crumpton Lockwood of Seattle, and by two stepchildren, Mrs. Jule Lawson Lanier and Thomas S. Lawson, Junior, both of Montgomery; and

WHEREAS, Mrs. Lawson's death has indeed left a deep void in the lives and hearts of her beloved family, whose sorrow we truly share and to whom we extend our most heartfelt sympathy; now therefore,



BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Mrs. Kathleen McClain Lawson, giving thanks for her life and for the joy and happiness she gave in such full measure.

BE IT FURTHER RESOLVED, That Mrs. Lawson's family receive copies of this resolution, expressing our concern in their great and grievous loss.

Approved April 10, 1984

Time: 4:35 P.M.

Act No. 84-177

S. 30—Senators Corbett, Covington, Dixon,  
Holmes, Menton and Bennett

# AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Cosmetology as provided in Sections 34-7-1 through 34-7-47, Code of Alabama 1975, and the legislature's concurrence thereof.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is declared that pursuant to the Alabama Sunset Law, Sections 41-20-1 through 41-20-16, Code of Alabama 1975, as amended, the Sunset Committee entered upon its duties, held public hearings, received testimony from the public and all interested parties relating to the continued existence and functioning of the Alabama Board of Cosmetology, and voted to recommend the continuance of the board created and functioning pursuant to Sections 34-7-1 through 34-7-47, Code of Alabama 1975, which Code sections are expressly continued.

**Section 2.** The legislature concurs in the recommendations of the Sunset Committee provided in Section 1 of this Act.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 10, 1984

Time: 4:35 P.M.

Act No. 84-178

S. 33—Senators Corbett, Covington, Dixon,  
Holmes, Menton and Bennett

## AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Alcoholic Beverage Control Board as provided in Sections 28-3-40 through 28-3-53, Code of Alabama 1975, and the legislature's concurrence thereof.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is declared that pursuant to the Alabama Sunset Law, Sections 41-20-1 through 41-20-16, Code of Alabama 1975, as amended, the Sunset Committee entered upon its duties, held public hearings, received testimony from the public and all interested parties relating to the continued existence and functioning of the Alabama Alcoholic Beverage Control Board, and voted to recommend the continuance of the board created and functioning pursuant to Sections 28-3-40 through 28-3-53, Code of Alabama 1975, which Code sections are expressly continued.

**Section 2.** The legislature concurs in the recommendations of the Sunset Committee provided in Section 1 of this Act.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 10, 1984

Time: 4:35 P.M.

Act No. 84-179

S. 120—Senators Smith (J), Denton, Smith  
(B), Cooley and Barron

## AN ACT

To authorize and make provision for the incorporation of railroad authorities as public corporations for the purpose of acquiring, constructing, equipping, improving, maintaining, developing and operating railroads, railroad properties and facilities, and other buildings and facilities, terminal and yard facilities, shop and repair facilities, real and personal property used or useful in rail transportation services, including both freight and passenger railroad service, and including the leasing or letting such buildings, structures or facilities; to provide that in order for any such Authority

to be organized, application must be made to the governing body of one or more counties, cities or towns in Alabama in which there are located certain railroad properties that the operator thereof has notified the Interstate Commerce Commission of an intention to abandon, and permission for organization of such Authority must be obtained from each such governing body to which application is made; to provide for the selection of the directors and officers of each such Authority; to specify the powers of each such Authority; to endow each such Authority with eminent domain powers, subject to certain limitations; to exempt each such Authority from laws and regulations relating to the advertising and award by the State and its departments and by local governmental authorities of construction or purchase contracts and from all Alabama Public Service Commission regulation other than rate regulation; to provide that any county, city, town or other political subdivision, public corporation, agency or instrumentality of this State within this State may aid and cooperate with any such Authority in the planning, undertaking, acquisition, construction and operation of railroads, and railroad properties and facilities, and may lend, give, donate, sell, convey or transfer to any such Authority money, property or any right capable of transfer; to provide that no action or suit shall be brought or maintained against the manager or any director of the Authority for or on account of the negligence of the Authority or director or of its or his agents, servants or employees; to authorize the issuance by each such Authority of revenue bonds payable solely out of the revenues of the Authority issuing such bonds; to specify provisions of such revenue bonds issued by any such Authority and to provide that such revenue bonds shall be deemed negotiable instruments; to provide that such revenue bonds issued by any such Authority may be secured by pledge of any of the revenues of the Authority issuing such bonds, whether the Authority's right to such revenues then exists or may thereafter come into existence and by mortgage or any property of any such Authority whether then in existence or thereafter acquired; to provide that such pledge may be provided for in an indenture between the Authority issuing such bonds and a trustee or by resolution providing for the issuance of the bonds; to provide that such pledges shall be valid and binding when made and effective against third parties without notice from the time a statement thereof is filed in the office of the judge of probate of the county in which the principal office of the Authority is located and in any other county in which there is located any property of the Authority, the revenues from which are so pledged; to provide that any such Authority may include in any indenture or resolution authorizing the issuance of such bonds provisions customarily contained in instruments securing evidence of indebtedness; to provide that bonds issued and contracts entered into by any such Authority pursuant to this Act shall not constitute or create a debt of the State or of any county, city or town within the State; to specify the uses to which the proceeds of revenue bonds issued by any such Authority may be put; to authorize the refunding of said bonds; to provide for remedies in the event of any default; to exempt from all taxation the bonds issued by any such Authority and the income therefrom and the income of any such Authority; to exempt all property of any such Authority from all taxation, subject to certain limitations insofar as exemption from state property taxation is concerned; to authorize the investment of any idle funds of any county, city or town within the State in bonds issued by any such Authority; to provide that bonds issued by any such Authority shall be legal investments for fiduciaries, savings banks and insurance companies; to authorize the publication of notice of the adoption of any resolution authorizing the issuance of bonds by any Authority and specifying the time after such publication within which actions and defenses may be asserted respecting such bonds, pledge and indenture and the proceedings authorizing the same; and to provide for the dissolution of any such Authority and the disposition of its property.

*Be It Enacted by the Legislature of Alabama:*

**Section 1. Definitions.** When used in this Act, unless the

context plainly indicates otherwise, the present tense shall include the future tense, the singular shall include the plural, the plural shall include the singular and the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Additional Rail Service Area” means any territory that is outside the boundaries or corporate limits (as the case may be) of any of its Authorizing Subdivisions and that the governing body of the county, and of any city or town, in which such territory is located has by resolution designated as an area in which the Authority may render Rail Transportation Service.

“Authority” means any public corporation organized pursuant to this Act or any law amendatory thereof or supplemental thereto.

“Authorizing Subdivision” means any county, city or town in this state in which there are located Railroad Properties and Facilities which the operator thereof has notified the Interstate Commerce Commission of an intention to abandon, and whose governing body receives an application for permission to organize an Authority.

“Board” means the Board of Directors of an Authority.

“Bond” means any bond authorized to be issued pursuant to the provisions of this Act.

“Coupon” means any interest coupon evidencing an installment of interest payable with respect to a Bond.

“Director” means a member of a Board.

“Federal Government” means the United States of America or any department, division, commission or agency and instrumentality thereof, including (without limitation) the Department of Transportation and the Interstate Commerce Commission.

“Indentures” means a mortgage, an indenture of mortgage, deed of trust, trust agreement or trust indenture executed by an Authority as security for Bonds.

“Person” means an individual, a corporation, a partnership or a foreign domestic association.

“Railroad” means a common carrier by railroad as defined in section 1(3) of Part I of the Interstate Commerce Act [codified as 49 U.S.C. § 1(3)].

“Railroad Properties and Facilities” means any real or personal property or interest in such property which is owned, leased or otherwise controlled by a Railroad or other Person, including (without limitation) an Authority, and which are used or are useful in Rail Transportation Service, including, without limiting the generality of the foregoing:

(i) Track, roadbed and related structures, including rail, ties, ballast, other track materials, grading, tunnels, bridges, trestles, culverts, elevated structures, stations, office buildings used for operating purposes only, repair shops, engine houses and public improvements used or useful in providing Rail Transportation Service;

(ii) Communication and power transmission systems for use by railroads;

(iii) Signals and interlockers;

(iv) Terminal or yard facilities and services to express companies, Railroads and their shippers, including ferries, tugs, car floats and related shoreside facilities designed for the transportation of equipment by water; and

(v) Shop or repair facilities or any other property used or capable of being used in providing Rail Transportation Service or in connection with such Service or for originating, terminating, improving and expediting the movement of equipment or goods.

“Rail Transportation Service” means both freight and passenger rail service.

“State” means the State of Alabama.

**Section 2. Authority and Procedure to Incorporate.** Pursuant to the provisions of this Act, Authorities may be organized as public corporations with the powers herein set forth. To organize an Authority, not fewer than three natural persons shall file with the governing body of any one or more counties, cities or towns within this State in which there are located Railroad Properties and Facilities which the operator thereof has notified the Interstate Commerce Commission of an intention to abandon, an application in writing for permission to incorporate a public corporation under the provisions of this Act and shall attach to such application a proposed form of certificate of incorporation for such corporation. If each governing body with which the application is filed shall adopt a resolution (which need not be published or posted) approving the form of such certificate of incorporation and authorizing the formation of such a public corporation, then said applicants shall become the incorporators of and shall proceed to incorporate an Authority as a public corporation in the manner hereinafter provided, using for that purpose the form of certificate of incorporation so approved.

**Section 3. Contents of Certificate of Incorporation.** The certificate of incorporation of an Authority shall state: (a) the names of the incorporators together with the residence of each thereof, and a statement that each of them is a duly qualified elector of and owner of property in the State; (b) the name of the Authority (which name

shall include the words "Railroad Authority"); (c) the period for the duration of the Authority (if the duration is to be perpetual that fact shall be so stated); (d) the name of each Authorizing Subdivision, together with the date on which the governing body thereof adopted a resolution authorizing the incorporation of the Authority; (e) the proposed location of the principal office of the Authority, which shall be in this State; (f) the number of directors, which shall be not less than three, the duration of their respective terms of office (which shall not be in excess of five years), and, subject to the provisions of Section 5 hereof, the manner of their election or appointment; and (g) any other matters relating to the Authority that the incorporators may choose to insert and that is not inconsistent with this Act or with other laws of the State.

**Section 4. Execution and Recording of Certificate of Incorporation.** The certificate of incorporation of an Authority shall be signed and acknowledged by the aforesaid incorporators before an officer authorized by the laws of the State to take acknowledgements to deeds and shall have attached thereto a certified copy of each of the resolutions provided for in Section 2 hereof and a certificate by the Secretary of State that the name proposed for the Authority is not identical to that of any other corporation organized under the laws of the State or so nearly similar thereto as to lead to confusion and uncertainty. The certificate of incorporation of an Authority, together with documents required by the preceding sentence to be attached thereto, shall be filed for record in the office of the Judge of Probate of the county in which the principal office of the Authority shall be located. The Judge of Probate shall forthwith receive and record the same. When such a certificate of incorporation and attached documents have been so filed, the Authority referred to therein shall come into existence and shall constitute a public corporation under the name set forth in such certificate of incorporation, whereupon the Authority shall be vested with the rights and powers herein granted.

**Section 5. Board of Directors of the Authority.** Each Authority shall be governed by a board of directors composed of the number of Directors provided in its certificate of incorporation, all of whom shall be selected in accordance with the provisions of this section. If there is to be only one Authorizing Subdivision (whether a county, city or town), the governing body of the Authorizing Subdivision shall elect all the Directors. If there is to be more than one Authorizing Subdivision, the respective governing bodies of the Authorizing Subdivisions shall each elect the same number of Directors; and one additional Director shall be elected jointly by the governing bodies of all the Authorizing Subdivisions. Each Director shall be a resident of the Authorizing Subdivision by whose gov-

erning body he was elected, except that the said additional Director need only be a resident of the county in which is located the principal office of the Authority, as specified in its certificate of incorporation. In the event of a vacancy which continues for more than thirty (30) days in the office of the said additional Director, then and in such event the Governor of Alabama shall, upon the request of the governing body of any Authority Subdivision, appoint the said additional Director. No officer of the State or any county, city or town therein shall, while holding such office, be eligible to serve as a Director. If any Director resigns, dies or becomes incapable or ineligible to act as a director, a successor to serve the unexpired portion of his term shall be elected in the manner prescribed hereinabove by the governing body of the Authorizing Subdivision which elected the Director whose unexpired term he is filling or, in the case of the said additional Director, by all such governing bodies. Failing such election for a period of more than thirty (30) days, such successor shall, upon the request of the governing body of any Authorizing Subdivision, be appointed by the Governor of the State. Directors shall be eligible for re-election.

A majority of the Directors shall constitute a quorum for the transaction of business but any meeting of the Board may be adjourned from time to time by a majority of the Directors present or may be so adjourned by a single Director if such Director is the only Director present at such meeting. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the powers and duties of the Authority. The Board shall hold regular meetings on the second Tuesday in each month and at such other times as may be provided in the bylaws of the Authority; and the Board may hold other meetings at any time and from time to time, provided that upon call of the chairman of the Authority or any two Directors, a special meeting of the Board must be held. Any matter on which the Board is authorized to act may be acted upon at any regular, special or called meeting. At the request of any Director, the vote on any question before the Board shall be taken by yeas and nays and entered upon the record. All proceedings of the Board shall be reduced to writing by the secretary of the Authority, recorded in a well bound book and open to each Director and to the public at all reasonable times. Copies of such proceedings, when certified by the secretary of the Authority under its seal, shall be received in all courts as evidence of the matters and things therein certified.

Directors shall receive no compensation for their services as directors; however, each Director may be reimbursed for expenses actually incurred by him in and about the performance of his duties. Any Director may be impeached and removed from office in the

same manner and on the same grounds provided by Section 175 of the Constitution of Alabama and the general laws of the State for impeachment and removal of the officers mentioned in said Section 175.

**Section 6.** Officers of the Authority. The officers of the Authority shall consist of a chairman, a vice-chairman, a secretary, a treasurer and such other officers as the Board shall deem necessary to accomplish the purposes for which the Authority was organized. The chairman, vice-chairman and secretary of the Authority shall be elected by the Board from its membership, but neither the treasurer nor any of the other officers of the Authority need be a member of the Board. Subject to the provisions of the immediately preceding sentence, the offices of secretary and treasurer may, but need not be, held by the same person. The chairman, vice-chairman and secretary of the Authority shall be elected by the Board for a term of one year, and the treasurer and the other officers of the Authority shall be elected by the Board for such term as it deems advisable. The duties of the chairman, vice-chairman, secretary and treasurer shall be such as are customarily performed by such officers and as may be prescribed by the Board. The duties of any other officer of the Authority shall be such as are from time to time prescribed by the Board.

**Section 7.** Powers of the Authority—In General. Each Authority shall have the following powers, together with all powers incidental thereto or necessary to the discharge thereof in corporate form:

- (1) to have succession by its corporate name for the duration of time (which may be in perpetuity) specified in its certificate of incorporation;
- (2) to sue and be sued in its own name in civil suit and actions;
- (3) To adopt and make use of a corporate seal and to alter the same at pleasure;
- (4) to adopt and alter by-laws for the regulation and conduct of its affairs and business;
- (5) to acquire, receive, take and hold, whether by purchase, gift, lease, devise, or otherwise, property of every description, whether real, personal or mixed, whether in one or more counties and whether within or without the boundaries or corporate limits (as the case may be) of any Authorizing Subdivision, and to manage said property, and to develop any undeveloped property owned, leased or controlled by it in a manner necessary or convenient to carry out the purposes of this Act;



(6) to execute such contracts and other instruments and to take such other action as may be necessary or convenient to carry out the purposes of this Act or the exercise of any power granted hereunder;

(7) to plan, establish, acquire (by purchase, gift, lease, or devise), construct, enlarge, reconstruct, improve, operate, maintain, replace, repair, extend, improve, regulate and protect Railroad Properties and Facilities within the boundaries or corporate limits (as the case may be) of any of its Authorizing Subdivisions and within any Additional Rail Service Area;

(8) to make the use and services of its Railroad Properties and Facilities available to others in the furtherance of the purposes of this Act and upon such terms and conditions as the Board shall deem proper, and to lease such Railroad Properties and Facilities to others upon such terms and conditions as the Board may determine, unless specifically provided for herein;

(9) to receive and accept contributions, grants or other financial assistance from the Federal Government, the State or any political subdivision thereof, to be used in furtherance of the purposes of this Act;

(10) to establish schedules of tolls, fees, rates, charges and rentals for the use of its Railroad Properties and Facilities and to charge, alter and collect such tolls, fees, rates, charges and rentals in carrying out the provisions of this Act;

(11) to make contracts and execute instruments containing such covenants, terms and conditions as in the judgment of the Board may be necessary, proper or advisable for the purpose of obtaining grants, loans or other financial assistance from any federal or state agency for or in the aid of the acquisition or improvement of the Railroad Properties and Facilities herein provided; to make all other contracts and execute all other instruments including, without limitation, licenses, long and short-term leases, mortgages and deeds of trust and other agreements relating to the Railroad Properties and Facilities within the boundaries or corporate limits (as the case may be) of any of its Authorizing Subdivisions and within any Additional Rail Service Area, and the construction, operation, maintenance, repair and improvement thereof as in the judgment of the Board may be necessary, proper or advisable for the furtherance of the purposes of this Act and the full exercise of the powers herein granted; and to carry out and perform the covenants, terms and conditions of all such contracts or instruments;

(12) to acquire, by purchase, gift, devise or lease, existing Railroad Properties and Facilities, whether in one or more counties and

whether within or without the boundaries or corporate limits (as the case may be) of any of its Authorizing Subdivisions;

(13) to issue revenue Bonds payable from the limited sources hereinafter referred to;

(14) to pledge for payment of such Bonds any revenues and funds from which such Bonds are made payable;

(15) to make and enter into contracts, leases and agreements incidental to or necessary for the accomplishment of any purposes for which the Authority was organized;

(16) to exercise the power of eminent domain in the manner and subject to the provisions of Title 18 of the Code of Alabama of 1975, as amended, with respect to any property, real, personal or mixed, whether in one or more counties and whether within or without the boundaries or corporate limits (as the case may be) of any Authorizing Subdivision; provided, that the Authority may not acquire by eminent domain any real property or rights owned or held by Railroads, transportation companies or utilities, either public or private;

(17) to appoint, employ, contract with and provide for compensation of such officers, employees and agents, including engineers, attorneys, consultants, fiscal advisers and such other employees as the business of the Authority may require, including the power to fix working conditions by general rule and other conditions of employment, and at its option to provide a system of disability pay, retirement compensation and pensions, or any of them, and to hire and fire servants, agents, employees and officers at will;

(18) to provide for such insurance, including use and occupancy insurance, as the Authority may deem advisable;

(19) to invest any funds of the Authority that the Board may determine are not presently needed for its corporate purposes in any obligations which are direct general obligations of the United States of America or which are unconditionally guaranteed as to both principal and interest by the United States of America, or in interest-bearing time deposits of any bank or savings and loan association organized under the laws of the State or of the United States of America;

(20) to cooperate with the State, any county, city, town, public corporation, agency, department, or political subdivision of the State, and to make such contracts with them or any of them as the board may deem advisable to accomplish the purposes for which the Authority was established;

(21) to sell and convey any of its properties that may have be-

come obsolete or worn out or that may no longer be needed or useful;

(22) to receive and accept grants for or in aid of the construction, extension, improvement, maintenance or operation of any Railroad Properties and Facilities from the United States of America or any agency thereof, and from the State, any department or agency thereof and any political subdivision thereof, and to receive and accept money, property, labor or other things of value from any source whatever; and

(23) to purchase equipment and supplies necessary or convenient for the exercise of any power of the Authority.

**Section 8. Federal and State Aid.** Each Authority is authorized to accept, receive, receipt for, disburse and expend Federal and State moneys and other moneys, public or private, made available by grant or loan or both, to accomplish, in whole or in part, any of the purposes of the Act. All Federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are not inconsistent with the laws of this State, and all State moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by law.

**Section 9. Cooperation.** For the purpose of aiding and cooperating with an Authority in the planning, development, undertaking, construction, extension, improvement or operation of Railroad Properties and Facilities, any county, city, town or other political subdivision, public corporation, agency or instrumentality of this State may, upon such terms and with or without consideration, as it may determine:

(a) Lend or donate money to an Authority;

(b) Cause water, sewer or drainage facilities, or any other facilities which it is empowered to provide, to be furnished adjacent to or in connection with such Railroad Properties and Facilities;

(c) Donate, sell, convey, transfer or lease to an Authority any land, property, franchise, grant easement, license or lease, which it may own;

(d) Donate, transfer, assign, sell or convey to an Authority any right, title or interest which it may have in any lease, contract, agreement, license or property;

(e) Furnish, dedicate, close, pave, repair, install, grade, regrade, plan or replan streets, roads, roadways and walks from established streets or roads to Railroad Properties and Facilities of an Authority; and

(f) Do any and all things, whether or not specifically authorized in this section and not otherwise prohibited by law, that are necessary or convenient to aid and cooperate with an Authority in the planning, undertaking, construction, reconstruction, acquisition or operation of Railroad Properties and Facilities.

**Section 10.** Suits against the Manager or any Director of the Authority. No action or suit shall be brought or maintained against the manager or any Director of an Authority for or on account of the negligence of the Authority or such manager or Director, or its or his agents, servants or employees, in or about the construction, maintenance, operation, superintendence or management of any Railroad Properties and Facilities or other property owned or controlled by the Authority.

**Section 11.** Bonds of the Authority. Each Authority shall have the power and is hereby authorized at any time and from time to time to issue and sell its revenue Bonds for any of its corporate purposes. The principal of and the interest on all such Bonds shall be payable solely from, and may be secured by a pledge of, the revenues derived by the Authority from the operation, leasing or sale of any or all of its Railroad Properties and Facilities, and other property. No Bonds issued or contracts entered into by the Authority shall ever constitute or create an obligation or debt of the State, or of any county, city or town within the State, or a charge against the credit or taxing powers of the State, or of any county, city or town within the State. Bonds of the Authority may be issued by any time and from time to time, may be in such form, either in bearer form with appurtenant Coupons (and subject to registration as to principal or interest, or both, all as the Board may determine) or in fully registered form without Coupons, and in such denominations, may be of such tenor, may be payable in such installments and at such time or times not exceeding forty years from their date, may be payable at such place or places whether within or without the State, may bear interest at such rate or rates (which may be fixed or which may float or vary based on some index or other standard deemed appropriate by the Board), and shall be payable and evidenced in such manner, all as shall not be inconsistent with the provisions of this Act and as may be provided in the proceedings of the board wherein the Bonds shall be authorized to be issued. Any Bond having a stated maturity more than ten years after its date shall be made subject to redemption at the option of the Authority not later than the expiration of ten years from its date and on any interest payment date thereafter at such price or prices and after such notice or notices and on such terms and in such manner as may be provided in the proceedings of the Board wherein it is authorized to be issued. Bonds of the Authority may be sold at public or private sale

in such manner and from time to time as may be determined by the Board. The Authority may pay all reasonable expenses, premiums, fees and commissions that the Board may deem necessary or advantageous in connection with the authorization, sale and issuance of its Bonds. All Bonds shall contain a recital that they are issued pursuant to the provisions of this Act, which recital shall be conclusive that they have been duly authorized pursuant to the provisions of this Act. Neither a public hearing nor the consent of any agency of the State or any subdivision thereof shall be prerequisite to the issuance of Bonds by any Authority. Notwithstanding the fact that they are payable solely from a specified source, all Bonds issued under the provisions of this Act shall be deemed negotiable instruments within the meaning of the negotiable instruments law of the State if they otherwise possess all the characteristics of negotiable instruments under the laws of the State.

**Section 12. Execution of Bonds.** All Bonds shall be signed by the chairman or vice-chairman and the secretary or treasurer of the Authority and the seal of the Authority shall be affixed thereto. A facsimile of the signature of one, but not both, of the officers whose signatures will appear on the Bonds may be imprinted or otherwise reproduced thereon in lieu of his manually signing the same; provided, however, that a facsimile of the signature of both such officers may be imprinted or reproduced on such Bonds if such Bonds are required to be authenticated by the manual signature of the duly designated registrar of such Bonds, or an authorized officer of such registrar; and provided further, that a facsimile of the seal of the Authority may be imprinted or otherwise reproduced on the Bonds in lieu of being manually affixed thereto. Coupons shall be signed by the chairman or vice-chairman and the secretary or treasurer of the Authority, but a facsimile of the signature of such chairman or vice-chairman and such secretary or treasurer may be impressed or otherwise reproduced on any such Coupons in lieu of their manually signing the same. Delivery of Bonds so executed shall be valid notwithstanding any changes in officers or in the seal of the Authority after the signing and sealing of the Bonds.

**Section 13. Security for Bonds.** In the discretion of the Authority any Bonds may be issued under and secured by an Indenture between the Authority and a trustee. Said trustee may be a private person or corporation, including (but not limited to) any trust company or bank having trust powers, whether such bank or trust company is located within or without the State. In any such Indenture or resolution providing for the issuance of Bonds, the Authority may pledge, for payment of the principal of and the interest on such Bonds, any of its revenues to which its right then exists or may thereafter come into existence and may assign, as security for such

payment, any of its leases, franchises, permits and contracts; and in any such Indenture, the Authority may mortgage any of its properties, including any that may be thereafter acquired by it. Any such pledge of revenues shall be valid and binding from the time it is made, and the revenues so pledged and thereafter received by the Authority shall immediately become subject to the lien of such pledge without any physical delivery thereof or further act. The lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether the parties have actual notice thereof, from the time a statement is filed in the office of the Judge of Probate of the county in which is located the principal office of the Authority (as specified in its certificate of incorporation) and any other county in which any part of the property, the revenues from which are so pledged, is located. Such notice need state only the date on which the resolution authorizing the issuance of the Bonds was adopted by the Board, the principal amount of Bonds issued, a brief description of the revenues so pledged and a brief description of any property the revenues from which are so pledged.

In any Indenture or resolution authorizing the issuance of Bonds and pledging for the benefit thereof revenues from any of its Railroad Properties and Facilities, the Authority shall have the power to include provisions customarily contained in instruments securing evidence of indebtedness, including, without limiting the generality of the foregoing, provisions respecting the collection, segregation and application of any rental or other revenue due to or to become due to the Authority, the terms to be incorporated in any lease agreement respecting any property of the Authority, the maintenance and insurance of any building or structure owned by the Authority, the creation and maintenance of special funds from any revenue of the Authority and the rights and remedies available in the event of default to the holders of the Bonds or the trustee under the Indenture, all as the Board shall deem advisable and as shall not be in conflict with the provisions of this Act. If there be any default by the Authority in payment of the principal of or the interest on the Bonds or in any of the agreements on the part of the Authority that may properly be included in any Indenture securing the Bonds, any holder of Bonds or Coupons, or the trustee under any Indenture if so authorized in such Indenture, may (in addition to any other remedies herein provided or otherwise available) either at law or in equity, by suit, action, mandamus or other proceedings, enforce payment of such principal or interest and compel performance of all duties of the Board and officers of the Authority, and shall be entitled as a matter of right, and regardless of the sufficiency of any such security, to the appointment of a receiver in equity with all the powers of such receiver for the operation and maintenance of the

property of the Authority covered by such Indenture and the collection, segregation and application of revenues therefrom. The Indenture may also contain provisions restricting the individual rights of action of the holders of the Bonds and Coupons.

**Section 14.** Use of Proceeds from Sale of Bonds. The proceeds derived from the sale of any Bonds (other than refunding Bonds) may be used only to pay the costs of acquiring, constructing, improving, enlarging and equipping the Railroad Properties and Facilities, or other property with respect to which they were issued, as may be specified in the proceedings in which the Bonds are authorized to be issued. Such costs shall be deemed to include the following: the costs of any land or easements forming a part of such Railroad Properties and Facilities or other property; the cost of labor, material and supplies used in any such construction, improvement or enlargement, including architects' and engineers' fees, and the cost of preparing contract documents and advertising for bids; the purchase price of, and the cost of installing equipment for use in connection with, such Railroad Properties and Facilities or other property; the cost of constructing and installing roads, sidewalks, curbs, gutters, utilities, and parking places in connection with such Railroad Properties and Facilities or other property; the amounts of any debt service, maintenance and capital improvement and other similar reserves deemed advisable; legal, fiscal and recording fees and expenses incurred in connection with the authorization, sale and issuance of the Bonds issued in connection with such Railroad Properties and Facilities or other property; and interest on said Bonds for a reasonable period prior to and during the time required for such construction, improvement, enlargement and equipment and for not exceeding eighteen months after completion thereof. If any of the proceeds derived from the sale of said Bonds remains undisbursed after completion of such work and payment of all of the said costs and expenses, such balance shall be used for retirement of the principal of or the interest on the Bonds of the same issue.

**Section 15.** Refunding Bonds. An Authority may at any time and from time to time issue refunding Bonds for the purpose of refunding the principal of and the interest on any Bonds of the Authority theretofore issued hereunder and then outstanding, whether or not such principal and interest shall have matured at the time of such refunding, and for the payment of any expenses incurred in connection with such refunding and any premium necessary to be paid in order to redeem, retire or purchase for retirement the Bonds to be refunded. The proceeds derived from the sale of any refunding Bonds shall be used only for the purposes for which the refunding Bonds were authorized to be issued. Any such refunding may be effected either by sale of the refunding Bonds and the application of

the proceeds thereof, or by exchange of the refunding Bonds for the Bonds or Coupons to be refunded thereby; provided that the holders of any Bonds or Coupons so to be refunded shall not be compelled without their consent to surrender their Bonds or Coupons for payment or exchange prior to the date on which they may be paid or redeemed by call of the Authority under their respective provisions. All provisions of this Act pertaining to bonds of an Authority that are not inconsistent with the provisions of this section shall, to the extent applicable, also apply to refunding bonds issued by an Authority. An Authority may at any time and from time to time issue Bonds for the purpose of so refunding the principal of and the interest on any of its Bonds and for any other purpose for which it is authorized to issue Bonds, in which event the provisions hereof respecting refunding Bonds shall apply only to that portion of such combined issue authorized for refunding purposes and the provisions hereof respecting other financing shall apply to the remaining portion of such combined issue.

**Section 16. Exemption from Taxation.** The Bonds issued by an Authority and the income therefrom shall be exempt from all taxation in the State. All property and income of an Authority shall be exempt from all State, county, municipal and other local taxation; provided, however, that this exemption shall not be construed to exempt concessionaires, licensees, tenants, operators or lessees of the Authority from the payment of any taxes, including licenses or privilege taxes levied by the State, any county or any municipality in the State; and provided further, that the property of an Authority shall be subject to State property taxation beginning in the tax year which begins next after the expiration of three years from the incorporation of the Authority.

**Section 17. Investment of County and Municipal Funds in Bonds of the Authority.** The governing body of any county, city or town within this State is authorized in its discretion to invest in Bonds of the Authority any idle or surplus money held in its treasury.

**Section 18. Eligibility of Bonds as Investments for Trust Funds.** Bonds issued under the provisions of this Act are hereby made legal investments for executors, administrators, trustees and other fiduciaries, unless otherwise directed by the court having jurisdiction of the fiduciary relation or by the document that is the source of the fiduciary's authority. Such Bonds shall be legal investments for savings banks and insurance companies organized under the laws of the State.

**Section 19. Notice of Bond Resolution.** Upon the adoption by the Board of any resolution providing for the issuance of Bonds,



the Authority may in its discretion cause to be published once a week for two consecutive weeks, in a newspaper that is customarily published in this State not less than five days in each calendar week and distributed in the county in which is located the principal office of the Authority, a notice in substantially the following form (the blanks being properly filled in) at the end of which there shall be printed the name and title of either the chairman or secretary of the Authority:

“\_\_\_\_\_, a public corporation of the State of Alabama, on the \_\_\_\_ day of \_\_\_\_\_, authorized the issuance of \$\_\_\_\_\_ principal amount of revenue bonds of the said corporation for purposes authorized in the act of the Legislature of Alabama under which the said corporation was organized. Any action or proceeding questioning the validity of the said bonds, or the pledge and any instruments securing such bonds, or the proceedings authorizing the same, must be commenced within thirty days after the first publication of this notice.”

Any action or proceeding in any court to set aside or question the proceedings for the issuance of the Bonds referred to in said notice or to contest the validity of any such Bonds or the validity of the pledge and any instruments made to secure such Bonds must be commenced within thirty days after the first publication of such notice. After the expiration of the said period no right of action or defense questioning or attacking the validity of the said proceedings, the said Bonds or the said pledge or instruments shall be asserted, nor shall the validity of the said proceedings, Bonds, pledge or instruments be open to question in any court on any ground whatsoever except in an action commenced within such period.

**Section 20.** Exemption from Contracting and Purchasing Laws and from Certain Public Service Commission Jurisdiction. Authorities organized pursuant to this Act shall be exempt from (a) all laws relating to the advertising and award of construction contracts and purchase contracts made by or in behalf of the State and its departments and by or in behalf of local governmental authorities in the State (not including, however, laws relating to surety bond requirements for such contracts), and (b) from all jurisdiction of and all regulation and supervision by the Alabama Public Service Commission (other than rate regulation) or other successor or similar agency.

**Section 21.** Dissolution of Authority. At any time when no Bonds of an Authority are outstanding, such Authority may be dissolved upon the filing, with the Judge of Probate of the county in which is filed the certificate of incorporation, of an application for dissolution, which shall be subscribed by each Director and sworn to

by each Director before an officer authorized to take acknowledgements to deeds. Upon the filing of such application for dissolution, the Authority shall cease to exist. Said Probate Judge shall receive and record the application for dissolution in an appropriate book of record in his office. Upon dissolution, all rights, title and interests of the Authority in property shall be vested in the Authorizing Subdivisions pursuant to the provisions of the certificate of incorporation, or, in the absence of such provisions, shall be vested in the Authorizing Subdivisions, share and share alike.

**Section 22. Cumulative Provisions.** The provisions of this Act are cumulative and shall not be deemed to repeal existing laws, except to the extent such laws are clearly inconsistent with the provisions of this Act.

**Section 23. Severability.** In the event any section, sentence, clause or portion of this Act should be declared invalid by any Court of competent jurisdiction, such invalidity shall not affect the validity of any of the remaining sections, sentences, clauses or portions of this Act, which shall continue effective.

**Section 24. Effective Date.** This Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming law.

Approved April 10, 1984

Time: 4:35 P.M.

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Act No. 84-180

H.J.R. 213—Rep. Rogers

### HOUSE JOINT RESOLUTION

Clarifying and expressing legislative intent with regard to House Bill No. 13 to permit horse racing in any Class 1 municipality.

WHEREAS, on March 27, 1984, the Legislature of Alabama enacted a House Bill No. 13 (the "Horse Racing Bill") to authorize horse racing and pari-mutuel wagering thereon in Class I municipalities, subject to the condition that such activities be approved in a referendum held for the voters of the county in which such activities are to be conducted. As advertised pursuant to the requirements of Sections 106 and 110 of the Constitution of Alabama and as originally introduced in the Legislature, the Horse Racing Bill provided for a referendum that would involve only the voters of the Class I municipality that would sponsor horse racing. The Horse Racing Bill was amended in passage to add a new section which provided for a

referendum among all voters in the county, as well as among the voters in the sponsoring municipality. The Horse Racing Bill contained a specific severability clause expressing the legislative intent that constitutional infirmities in the provisions for a county-wide referendum should not result in the invalidation of the entire act; and

WHEREAS, the members of the House and Senate of the State of Alabama understand that the Governor is concerned that the severability clause applicable to the county-wide referendum might be invoked in a lawsuit brought for the purpose of restricting referendum to voters in the sponsoring municipality. The severability clause was included for the opposite purpose of protecting the horse racing legislation from a legal attack that might be brought by disappointed opponents after they had lost a county-wide referendum. Due to the fact that the county-wide referendum was not reflected in the notice published with respect to the Horse Racing Bill, and also due to the possibility that the provisions for a county-wide referendum might convert the bill into legislation primarily applicable to a county clearly identified as Jefferson County — as distinguished from a general act applicable to a class of municipalities sanctioned by Section 110 of the Constitution of Alabama — the sponsors of the Horse Racing Bill were apprehensive that the amendment thereto providing for a county-wide referendum would give opponents an opportunity to mount a legal attack against the bill even if it were approved by a majority of the voters in the county; and

WHEREAS, the members of the House and Senate of the State of Alabama hereby state and proclaim their collective intention and understanding that the Horse Racing Bill is to provide for a county-wide referendum on the question of whether horse racing and pari-mutuel wagering thereon will be authorized in the sponsoring municipality, subject to legal permissibility therefor; and whereas, they deplore the possibility of there taking place any legal attack upon such a county-wide referendum, and express their desire, and commit their political and legislative influence to the principle, that the voters of the county in which the sponsoring municipality is located should have an opportunity to approve or disapprove, in a county-wide referendum, the authorization of horse racing and pari-mutuel wagering thereon pursuant to the act resulting from passage of the Horse Racing Bill; and

WHEREAS, a majority of the Senators and Representatives from the sponsoring county of Jefferson have certified to the Governor that this is and was their individual intention with respect to the passage of the Horse Racing Bill; and

WHEREAS, we understand that the Governor has also been in-

formed in writing by the proposed or contemplated developers of the horse racing facility that they also understand and support a county-wide vote on the issue and that they would defend at all times the validity of a county-wide election;

NOW THEREFORE, WE, the Legislature of the State of Alabama, both houses concurring, do hereby resolve, state and proclaim that our collective understanding and intent is that the Horse Racing Bill is to provide for a county-wide referendum of the people of the county in which the sponsoring municipality is located on the question of whether horse racing and pari-mutuel wagering thereon will be authorized in the sponsoring municipality, and we further resolve to commit our political and legislative influence to ensure that the voters in the county in which the sponsoring municipality is located shall have an opportunity to approve or disapprove, in a county-wide referendum, the authorization of horse racing and pari-mutuel wagering thereon, pursuant to the act resulting from passage of the Horse Racing Bill.

Approved April 10, 1984

Time: 4:35 P.M.

Act No. 84-181

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H.J.R. 214—Reps. Seibels, Adams, Albright, Bachus, Beers, Black, Blake, Blakeney, Boles, Bowling, Box, Brakefield, Britnell, Brooks, Browder, Bryant, Bugg, Burke, Buskey (James), Buskey (John), Butler, Campbell, Carothers, Carter, Clark (D), Clark (J), Clark (W), Coburn, Coleman, Cosby, Crow, Davis, Drake, Dutton, Escott, Faulk, Flowers, Ford, Fuller, Gaston, Goodwin, Gray, Grayson, Grimsley, Grouby, Hall, Hammett, Harper,

Harvey, Hettinger,  
 Holley, Holmes,  
 Hooper, Horn,  
 Johnson (RG),  
 Johnson (Roy),  
 Junkins, Kennedy,  
 Kvalheim, Laird,  
 Lauderdale, Lindsey,  
 McDowell, McKee,  
 McMillan, McNair,  
 Marietta, Martin,  
 Mathis, Melton,  
 Mikell, Mitchell,  
 Moore, Newman,  
 Nicholson,  
 Onderdonk, Parker,  
 Payne, Penry,  
 Perdue, Poole, Pratt,  
 Preuitt, Rains, Reed,  
 Rice, Richardson,  
 Rogers, Sasser,  
 Smith, Spratt,  
 Starkey, Starr,  
 Tanner, Thomas,  
 Trammell, Turner,  
 Turnham, Venable,  
 Warren, White (F),  
 White (G), White  
 (L), Zoghby

## HOUSE JOINT RESOLUTION

### MOURNING THE DEATH OF MRS. ALYNE LEWIS BIDDLE OF GARDENDALE, ALABAMA.

WHEREAS, it is with deep regret and in personal sorrow that the Alabama Legislature notes the death of Mrs. Alyne Lewis Biddle of Gardendale, Alabama, on April 4, 1984, at the age of 80 years; and

WHEREAS, Mrs. Biddle, though formerly of Laguna Beach, Florida, was a longtime resident of the Birmingham area, and in addition to her husband, Mr. Jack Biddle, Junior, she is survived by a son, our friend Representative Jack Biddle; a daughter, Mrs. Jacqueline B. Porter; four grandchildren and two great grandchildren; and by a sister and two brothers; and

WHEREAS, among other community affiliations and involve-

ments, Mrs. Biddle was an active and faithful member of Gardendale's Mount Vernon Methodist Church; and

WHEREAS, Mrs. Biddle's death has indeed left a deep void in the lives and hearts of her beloved family, whose sorrow we truly share and to whom we extend heartfelt sympathy; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Mrs. Alynne Lewis Biddle, giving thanks for her life and for the joy and happiness she gave in such full measure.

BE IT FURTHER RESOLVED, That Mrs. Biddle's family receive copies of this resolution expressing our concern in their great and grievous loss.

Approved April 10, 1984

Time: 4:35 P.M.

Act No. 84-182

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H.J.R. 196—Reps. Cosby, Adams, Albright, Bachus, Beers, Biddle, Black, Blake, Blakeney, Boles, Bowling, Box, Brakefield, Britnell, Brooks, Browder, Bryant, Bugg, Burke, Buskey (James), Buskey (John), Butler, Campbell, Carothers, Carter, Clark (D), Clark (J), Clark (W), Coburn, Coleman, Crow, Davis, Drake, Dutton, Escott, Faulk, Flowers, Ford, Fuller, Gaston, Goodwin, Gray, Grayson, Grimsley, Grouby, Hall, Hammett, Harper, Harvey, Hettinger, Holley, Holmes, Hooper, Horn, Johnson (RG), Johnson (Roy), Junkins, Kennedy, Kvalheim, Laird, Lauderdale, Lindsey, McDowell, McKee, McMillan, McNair, Marietta, Martin, Mathis, Melton, Mikell, Mitchell, Moore, Newman, Nicholson, Onderdonk, Parker, Payne, Penry, Perdue, Poole, Pratt,

Preuitt, Rains, Reed, Rice,  
Richardson, Rogers, Sasser,  
Seibels, Smith, Spratt,  
Starkey, Starr, Tanner,  
Thomas, Trammell, Turner,  
Turnham, Venable, Warren,  
White (F), White (G), White  
(L), Zoghby

### HOUSE JOINT RESOLUTION

WISHING MRS. MILDRED GRIFFEN A SPEEDY RECOVERY.

WHEREAS, the Alabama Legislature expresses sincere and deep regret in the illness of Mrs. Mildred Griffen; and

WHEREAS, happily, however, Mrs. Griffen has returned to her home in Prattville to recuperate from surgery, and the prognosis for her complete recovery is excellent; and

WHEREAS, Mrs. Griffen, an employee of AT&T, has covered the rotunda telephone message center during Legislative sessions for a number of years and, through close association, has become a personal and valued friend; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we sincerely wish Mrs. Mildred Griffen the speediest possible recovery, and that she soon will be back with us at the Capitol.

BE IT FURTHER RESOLVED, That Mrs. Griffen receive a copy of this resolution in expression of our sincere best wishes and of our highest regard for her both as co-worker and friend.

Approved April 12, 1984

Time: 4:00 P.M.

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Act No. 84-183

H.J.R. 203—Rep. Buskey (John)

### HOUSE JOINT RESOLUTION

COMMENDING ST. PETER'S CATHOLIC CHURCH, MONTGOMERY, ALABAMA, ON THE OCCASION OF ITS SESQUICENTENNIAL, FOR ITS OUTSTANDING CONTRIBUTIONS TO THE COMMUNITY AND STATE.

WHEREAS, St. Peter's Catholic Church of Montgomery, Alabama, has served the spiritual needs of its community since 1834,

and the members and priests who have served St. Peter's have demonstrated to an uncommon degree sensitivity to the needs of the community for the betterment of the citizens of this State; and

WHEREAS, St. Peter's Church and its members and clergy for generations have been leaders in fighting for social justice and rights of the community and have worked for the enrichment of their fellow citizens, spiritually, culturally, civically and economically; and

WHEREAS, St. Peter's Catholic Church, Montgomery, Alabama, which sprang from a small wooden Church, is the second oldest Catholic Church in the Diocese of Mobile and was dedicated on April 25, 1834, with the first Catholic members meeting in the homes and at various locations from 1831 until that time, and now has a membership of over 250 families; and

WHEREAS, St. Peter's Church assisted the community at large in times of crisis and contributed immeasurably to the civic, educational, cultural and economic endeavors of the community and State of Alabama and its citizens; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily commend the parishioners of St. Peter's Catholic Church, Montgomery, Alabama, and the pastor, Reverend Patrick O'Connor, whose lives and exemplary devotion have inspired us, and we do express our admiration for their contributions to the development of their community and the State of Alabama.

FURTHER RESOLVED, That we do convey our best wishes on the occasion of the Sesquicentennial of St. Peter's Catholic Church, Montgomery, Alabama, on April 25, 1984.

BE IT FURTHER RESOLVED, That copies of this Resolution be sent by the Clerk of the House to St. Peter's Catholic Church and to the pastor, Reverend Patrick O'Connor, so that they may know of our high esteem and admiration.

Approved April 12, 1984

Time: 4:00 P.M.

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Act No. 84-184

S. 202—Senator Parsons

### AN ACT

To authorize the Public Service Commission to grant intrastate charter rights to any common carrier of passengers by motor vehicle regardless if such common carrier holds and operates regular route authority.



*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Notwithstanding the provisions of Section 37-3-11, Code of Alabama 1975, or any other provision of general law, local law, or any rule or regulation of a state agency to the contrary, the Public Service Commission is hereby authorized to grant intrastate charter rights to any common carrier of passengers by motor vehicle regardless if such common carrier holds and operates regular route authority.

**Section 2.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 4.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 16, 1984

Time: 1:45 P.M.

Act No. 84-185

H. 181—Rep. Starkey

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AN ACT

To amend Section 8-17-87, Code of Alabama, 1975, to provide that the inspection fee on gasoline be increased to \$.02 per gallon and the inspection fee on diesel fuel be increased to \$.02 per gallon. To amend Section 8-17-91, Code of Alabama, 1975, as amended, to provide for distribution of permit fees, inspection fees, penalties; refund of overpayments and to provide for appropriation of funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 8-17-87, Code of Alabama, 1975, is amended to read as follows:

“Section 8-17-87.

(a) An inspection fee is hereby imposed and shall be collected in respect of petroleum products sold, offered for sale, stored or used in the state, the said fee to be measured by the number of gallons and to be at the following rates:

(1) Gasoline, \$.02 per gallon.

(2) Diesel fuel other than that referred to in subdivisions (a) (5), (a) (6), (a) (7), (a) (8) and (a) (9) of this section, \$.02 per gallon.

(3) Kerosene other than that referred to in subdivisions (a) (5), (a) (6), (a) (7), and (a) (9) of this section, \$.01 per gallon.

(4) Lubricating oil, \$.15 per gallon.

(5) Kerosene or diesel fuel that is of the types customarily used as, and that is intended to be used only as, fuel to propel jet aircraft, one fortieth of \$.01 per gallon.

(6) Kerosene or diesel fuel that is used by the ultimate consumer thereof as motor fuel to operate boats, yachts, ships or other maritime vehicles, whether such boats, yachts, ships or other maritime vehicles are used commercially or for pleasure, one fortieth of \$.01 per gallon.

(7) Kerosene or diesel fuel used by the ultimate consumer thereof to propel or operate tractors which are not operated on public highways but which are used exclusively in preparing and cultivating land, harvesting any agricultural commodity or for other agricultural purposes, including pasture and hay production; provided, however, that the term "tractor" as used herein shall not include automobiles, trucks, pickups, trailers, semitrailers, or other such vehicles, one fortieth of \$.01 per gallon.

(8) Diesel fuel that is of the types customarily used as, and that is intended to be used as, only fuel to propel railroad locomotives, one fortieth of \$.01 per gallon. Diesel fuel of the types referred to in this subdivision shall be inspected in a manner determined and prescribed by the commissioner of agriculture and industries.

(9) Kerosene or diesel fuel used by the ultimate consumer thereof as a solvent or other agent in the treatment or preservation of wood products, one fortieth of \$.01 per gallon.

(b) It shall be the duty of the person first selling, storing or using any petroleum product in the state to pay such inspection fee. The inspection fee shall be paid to the commissioner of agriculture and industries on or before the twentieth day of each month in respect of all petroleum products sold, stored or used in the state during the preceding month. Each remittance shall be accompanied by a certificate stating the amount remitted is correct and that the petroleum products so sold, stored or used are of standard not less than the minimum specified for that petroleum product in the standards prescribed by the board pursuant to section 8-17-81.

(c) If, at the time the inspection fee is due, the person liable therefor is unable to ascertain the correct amount of such inspection fee because the use to be made of any diesel fuel or kerosene with respect to which the inspection fee is then due has not been or cannot be ascertained at such time, then such person shall pay to the

commissioner of agriculture and industries as the inspection fee payable with respect to such diesel fuel and kerosene, \$.02 for each gallon of such diesel fuel and \$.01 for each gallon of such kerosene.

(d) Upon furnishing proof satisfactory to the commissioner of agriculture and industries that all or any portion of such diesel fuel or kerosene with respect to which an inspection fee at the rate of \$.02 or \$.01 per gallon respectively has been paid or has been or will be used for a purpose or purposes specified in subdivisions (a) (5), (a) (6), (a) (7), (a) (8) and (a) (9), then such person shall be entitled to a credit against the amount of inspection fee becoming due from such person on the twentieth day of the then next following calendar month, such credit to be in an amount equal to thirty-nine fortieths of \$.01 for each gallon of kerosene or 1 39/40 cents for each gallon of diesel fuel proved to have been used or to be used for such specified purpose or purposes; provided, that should the credit to which a person is entitled hereunder exceed the amount of the inspection fee becoming due from such person on the twentieth day of the then next following calendar month, then the excess of the credit over the amount of the inspection fee becoming due shall be refunded to such person or, at such person's election, credited against the amount of any inspection fees subsequently becoming due from such person.

(e) The board of agriculture and industries shall have authority to promulgate rules and regulations with respect to the form and content of the proof of use which must be supplied by a person seeking such a credit or refund and with respect to the procedure to be followed in applying for such a credit or refund.

(f) The inspection fee provided for in this section shall be paid but once with respect to the same product; but in the event any person fails to make payment as herein provided on or before the date such payment is due, the commissioner of agriculture and industries shall add to the inspection fee already due an amount equal to 10 percent thereof as a penalty for the failure of such person to make such report and payment upon the date provided in this section and shall proceed to collect such inspection fee, together with all costs incident to such collection, including the penalty.

(g) The inspection fee and any penalty added thereto shall constitute and operate as a lien at all times until paid upon any petroleum products sold, offered for sale, stored or used in the state by the person liable for the fee, and shall be immediately enforceable by the commissioner of agriculture and industries when due in the same manner as are tax liens upon personal property of a delinquent taxpayer.

(h) The inspection fee provided for in this section is in addi-

tion to all other fees and all taxes payable with respect to petroleum products.

(i) Notwithstanding anything to the contrary in this section, no inspection fee or penalty shall be due or payable with respect to petroleum products which are sold, offered for sale, stored or used while they are in interstate or international commerce; but if, after such petroleum products are removed from interstate or international commerce, such petroleum products are sold, offered for sale, stored or used in the state, the fee provided for in this section shall be payable with respect to such petroleum products.

(j) The board of agriculture and industries shall have authority to adopt and promulgate reasonable rules and regulations to effectuate the evident intent and purpose of this section with respect to reporting, collection, remittance and payments of the petroleum products inspection fees imposed under this section which shall not conflict with any of the express provisions and requirements of this section."

**Section 2.** Section 8-17-91, Code of Alabama, 1975, as amended, is amended to read as follows:

"(a) The proceeds from the permit fees, inspection fees and penalties, if any, collected by the commissioner of agriculture and industries pursuant to the provisions of this division shall be paid into the state treasury and distributed as follows:

(1) \$175,000 of the proceeds received each month shall accrue to the credit of, and be deposited in, the agricultural fund; and

(2) The balance of the proceeds shall be distributed as follows:

(i) 13.87% of the balance of the proceeds shall be distributed equally among each of the 67 counties of the state monthly. Such funds shall be used by the counties for the following purpose:

When the use is by a county, such use shall be for the construction, including draining, grading, basing, paving, signing and erosion items, of certain high density unpaved roads as herein provided and for the construction or reconstruction of bridges on such high density roads. The use may also be for the reconstruction, resurfacing, restoration and rehabilitation of the paved county roads and bridges or bridge replacement on the county road system. The use may also be for the construction, including draining, grading, basing and paving of certain unpaved roads, and reconstruction of certain paved roads accessing certain public and private recreational facilities and areas.

There is hereby created a committee to be referred to as the Secondary Road Committee comprised of two county engineers ap-

pointed by the State Highway Director, two county commission members appointed by the Governor, and the Chief of the Bureau of Secondary Roads. The committee members shall serve at the pleasure of the appointing authority. The committee shall elect one of its members to serve as chairman. A quorum of the committee shall consist of no less than three members. Committee members shall serve without compensation.

The Secondary Road Committee shall develop and publish criteria for the designation of high density roads and bridges and for the designation of eligible recreational access roads. The committee may in its discretion provide different criteria for counties according to population, topography and road mileage. The committee shall also develop and publish minimum design standards, including allowable cost items, for the construction, reconstruction, surfacing, resurfacing, restoration and rehabilitation of such high density roads and bridges and recreational access roads. Criteria and standards developed by the committee shall be published by distributing printed copies thereof to the chairman of each county commission in Alabama no later than ninety (90) days after the effective date of this section. The committee may from time to time amend the criteria and standards developed provided that at least sixty (60) days notice is provided in writing to the chairman of each county commission before the effective date of such amendment. The State Highway Department shall provide all supplies and clerical help necessary for the committee to execute its responsibilities.

County commissions are hereby required to submit all plans for the use of such proceeds to the Highway Director or his designee for approval. The Highway Director or his designee shall review all plans and approve them or disapprove them, based on the criteria and standards developed by the committee.

The funds distributed to the counties under this subsection shall not be commingled with other funds of the county except the counties' portion of the auto license tax distributed under Section 40-12-270 (a) (1), Code of Alabama, 1975, as amended and shall be kept and disbursed by such county from a special fund only for the purposes hereinabove provided.

The provisions of this section notwithstanding, any county may at any time deposit all or any portion of such proceeds into the county's special RRR fund as provided for in Section 40-17-224, Code of Alabama, 1975, and may use the proceeds so deposited for any purpose authorized under said section.

(ii) \$408,981 shall be allocated to the Highway Department monthly and deposited in the State Treasury to the credit of the Public Road and Bridge fund. Such funds are hereby appropriated

to the Highway Department to be used to match federal aid discretionary funds that may from time to time become available to the Highway Department. In the event that in any fiscal year other Highway Department funds are insufficient to match the Department's regular federal aid apportionment, then at the Highway Director's recommendation and approval by the Governor funds appropriated under this subsection may be used to match said federal aid apportionment.

(iii) 2.76% of the balance of the proceeds shall be allocated among the incorporated municipalities of the state as follows:

(a) A portion of the municipalities' share of the balance of the proceeds that is equal to 45.45 percent of the municipalities' share of the balance of the proceeds shall be allocated equally among the 67 counties of the state.

(b) The entire residue of the municipalities' share of the balance of the proceeds being an amount equal to 54.55 percent of the municipalities' share of the balance of the proceeds shall be allocated among the 67 counties of the state on the basis of the ratio of the population of each such county to the total population of the state according to the then next preceding federal decennial census, or any special federal census heretofore held in any county subsequent to the effective date of the 1980 federal decennial census.

(c) The amount so allocated or apportioned to each county shall be distributed among the municipalities in the county with respect to which the allocation or apportionment is made, each such distribution among the said municipalities to be on the basis of the ratio of the population of each such municipality to the total population of all municipalities in the applicable county according to the then next preceding federal decennial census.

(d) The population of any municipality incorporated subsequent to the taking of the then next preceding federal decennial census shall be deemed to be the population shown by the census for that municipality taken pursuant to the requirements of section 11-41-4. Any municipality incorporated after September, 1983, shall not participate in the distribution provided for in this section until the fiscal year next succeeding the fiscal year during which it is incorporated, the first distribution to such municipality to be made in respect of receipts of the inspection fee by the state during October of the fiscal year next succeeding the said incorporation.

(e) Use of the inspection fee by a municipality shall be for transportation planning, the construction, reconstruction, maintenance, widening, alteration and improvement of public roads, bridges, streets and other public ways, including payment of the

principal of and interest on any securities at any time issued by the municipality pursuant to law for the payment of which any part of the net tax proceeds were or may be lawfully pledged; provided, that no part of the balance of the proceeds referred to in this section shall be expended contrary to the provisions of the Constitution; and provided further, that funds distributed to municipalities under the provisions of this division shall not be commingled with other funds of the municipality, except the municipalities' portion of the highway gasoline tax, and shall be kept and disbursed by such municipality from a special fund only for the purposes hereinabove provided.

(iii) The balance of the proceeds after (i) (ii) and (iii) above have been distributed monthly shall accrue to the credit of and be deposited in the Public Road and Bridge fund.

(b) In the event of the collection hereunder from any person of an amount in excess of the amount of all permit fees, inspection fees or penalties properly and lawfully required to be paid by such person, such person may apply to the commissioner of agriculture and industries for a refund of the amount of such overpayment. If such application for refund is approved in whole or in part by the commissioner, the commissioner shall submit to the state comptroller a statement, approved by the state attorney general, setting forth the amount determined to have been overpaid and the date of the overpayment. The state comptroller shall then draw his warrant in favor of the person making such overpayment upon the state treasurer for the amount specified in the said statement, and such amount shall be paid out of current months collections before any distribution is made under subsection (a) of this section.

(c) The application for refund provided for in this section must be filed with the commissioner of agriculture and industries within 12 calendar months from the date upon which the overpayment was made, and no amount shall be refunded unless the application therefor is filed within the time prescribed herein.

(d) The department of agriculture and industries shall have authority to make and issue rules and regulations relating to the procedure to be followed in filing an application for a refund and for payment of any refund made under this section."

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective the first day of the

next month after the month of its passage and approval by the Governor or upon its otherwise becoming a law.

Approved April 19, 1984

Time: 1:45 P.M.

Act No. 84-186

H. 182—Rep. Starkey

### AN ACT

To amend Sections 40-12-248, 40-12-269 and 40-12-270, Code of Alabama, 1975, as amended, which relate to license taxes and registration fees on trucks and truck tractors so as to further provide for the collection, amount and distribution of such license taxes and registration fees.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-12-248, Code of Alabama, 1975, as amended, is hereby amended to read as follows:

“Section 40-12-248.

(a) For each truck or truck tractor using the public highways of this state, annual license taxes and registration fees based on the gross vehicle weight in pounds are hereby imposed and shall be charged. For the purposes of this section, the term “gross vehicle weight” shall mean the empty weight of the truck or truck tractor plus the heaviest load to be carried and, in the case of combinations shall be deemed to include also the empty weight of the heaviest trailer with which the power unit shall be placed in combination, plus the heaviest load to be carried. No tolerance or margin of error shall be allowable under any of the provisions of this section.

(b) For each truck or truck tractor using the public highways of this state, the annual license taxes and registration fees herein imposed (i) shall consist of the base amount applicable to such truck or truck tractor under the schedule of base amounts set forth in this subsection, plus (ii) the additional amount, if any, applicable to such truck or truck tractor under the provisions of the schedule of additional amounts set forth in this subsection:

#### SCHEDULE OF BASE AMOUNTS

Gross Vehicle Weight in Pounds	Base Amount
0 to 8,000	\$ 10.70
8,001 to 12,000	52.50
12,001 to 18,000	85.00
18,001 to 26,000	117.50
26,001 to 33,000	150.00



33,001 to 42,000	260.00
42,001 to 55,000	292.50
55,001 to 64,000	325.00
64,001 to 73,280	357.50
73,281 to 80,000	390.00
80,001 or over	422.50

#### SCHEDULE OF ADDITIONAL AMOUNTS

Gross Vehicle Weight in Pounds	Additional Amount
0 to 8,000	2.30
8,001 to 12,000	52.50
12,001 to 18,000	85.00
18,001 to 26,000	117.50
26,001 to 33,000	150.00
33,001 to 42,000	260.00
42,001 to 55,000	292.50
55,001 to 64,000	325.00
64,001 to 73,280	357.50
73,281 to 80,000	390.00
80,001 or over	422.50

The total amount of the said annual license tax and registration fee shall be limited with respect to trucks owned and used by a farmer for transporting farm products or the personal property of the farmer for his use on his farm to a maximum of \$30.00 where the gross vehicle weight of the truck does not exceed 30,000 pounds and to a maximum of \$85.00 where the gross vehicle weight of the truck exceeds 30,000 but does not exceed 42,000 pounds, and the said annual license tax and registration fee shall be limited with respect to trucks owned and used by any person for transporting forest products from the point of severance to a sawmill, to a papermill or to a concentration yard to a maximum of \$40.00 where the gross vehicle weight of the truck does not exceed 30,000 pounds and to a maximum of \$65.00 where the gross vehicle weight exceeds 30,000 pounds but does not exceed 42,000 pounds. For each truck tractor which is operated by a certificated motor carrier and which is operated exclusively within 15 miles of the corporate limits of the incorporated municipality in which it is customarily domiciled, but not including vehicles operating beyond the borders of Alabama, and which is registered in the county in which it is customarily domiciled, a total annual license tax and registration fee of \$300.00 is hereby imposed and shall be charged.

(c) Every person making application for license under this section to use a truck or truck tractor on the public highways of this state shall be required to make an affidavit declaring the gross vehi-

cle weight of such truck or truck tractor and file the said affidavit with the judge of probate, or other county licensing officer, in the county in which the said application is made. Upon payment of the applicable motor vehicle license tax or registration fee, the license to use the said truck or truck tractor on the public highways of this state shall be limited to the gross vehicle weight so declared by the owner, which shall be deemed to constitute the allowable gross vehicle weight for which the said vehicle is licensed.

After having obtained a license under this section with respect to any truck or truck tractor, the owner thereof may during the then current tax year voluntarily increase the allowable gross vehicle weight for which his vehicle is licensed by making a new affidavit, applying for a new license applicable to the appropriate gross vehicle weight classification, surrendering the license plates or tags previously obtained, and paying the difference between the fees applicable to a license for the higher weight classification desired and the fee in respect of the license so surrendered. The license classification of a truck or truck tractor may not be decreased, however, except once a year at the time new license tags or plates are purchased for such truck or truck tractor.

**Section 2.** Section 40-12-269, Code of Alabama, 1975, as amended, is hereby amended to read as follows:

“Section 40-12-269.

(a) On or before the twentieth day of each month, the probate judge must disburse all money received by him during the then preceding month in respect of motor vehicle licenses and registration fees as follows:

(1) The probate judge shall retain, as compensation for collecting all such money, two and one-half percent of all moneys so collected, except that portion of the said moneys that constitutes additional amounts paid under the schedule of additional amounts set forth in subsection (b) of section 40-12-248; but no such compensation shall be allowed with respect to any money not remitted pursuant to subdivisions (2) and (3) of this subsection at the time when such remittances are provided in this section to be made;

(2) There shall be remitted to the state treasurer five percent of all moneys so collected except that portion of the said moneys that constitutes additional amounts paid under the schedule of additional amounts set forth in subsection (b) of section 40-12-248; and

(3) The residue of the money so collected shall be remitted as provided in section 40-12-270; provided, that the probate judge shall have an additional period of 10 days within which to make remit-

tances of amounts collected by him during the months of October, November and December and remittances with respect to collections during any of those months shall be made on or prior to the thirtieth day of the then next succeeding month.

(b) At the time that each monthly remittance is made as herein provided, the probate judge shall forward to the comptroller and to the department of revenue each a certified list of all motor vehicle licenses issued by the probate judge during the then preceding month, stating therein the amount collected for each license tag, the number of the tag, the motor number of the vehicle or vehicle identification number, in lieu of the motor number, the serial number of the vehicle, the name and address of its owner and the date of the issuance of said tag; provided, that the governor may, by executive order, direct that such list be forwarded to the state department of public safety instead of the state department of revenue, thus placing the responsibility for the maintenance of the records of motor vehicle registration on the state department of public safety whenever such action is necessary to enable the state to receive federal funds or federal grants under the National Highway Safety Act or any other federal program; provided further, that in all counties having over 600,000 population according to the last or any subsequent federal census the date of the issuance of the tag shall not be included in the certified list of all motor vehicle licenses issued. If no such licenses shall have been issued during any month by the probate judge, he shall report that fact to the said comptroller and to the said department on or prior to the tenth day of the then next succeeding month.

(c) If any probate judge fails to comply with the provisions of this section within five days after the date on which he is required to make any report or remittance hereunder, the comptroller shall forthwith report such failure to the governor, who shall cite such probate judge to show cause why he has not made report of the list of motor vehicle licenses and paid over the amount collected by him as required by law, and if such probate judge fails to show sufficient cause for such failure, the governor shall direct the attorney general to institute impeachment proceedings against him before the supreme court.

**Section 3.** Section 40-12-270, Code of Alabama, 1975, as amended, is hereby amended to read as follows:

“Section 40-12-270.

(a) The moneys collected each month by the judge of probate from motor vehicle license taxes and registration fees, after deducting therefrom the amounts referred to in subdivisions (1) and (2) of subsection (a) of section 40-12-269, the moneys remaining after

making the said deductions being referred to in this section as "the net proceeds," shall be disbursed by the judge of probate as follows:

(1) That portion of the net proceeds that consists of additional amounts paid under the schedule of additional amounts set forth in subsection (b) of section 40-12-248 shall be remitted by the judge of probate to the state treasurer who shall distribute said amounts as follows:

a. 64.75 percent of said amounts shall be distributed by the state treasurer to the state of Alabama;

b. 35.25 percent of said amounts shall be apportioned and distributed by the state treasurer among the 67 counties as follows:

i. A portion of the counties share of the net tax proceeds that is equal to 42.16 percent of the total net tax proceeds distributed to counties under subsection (a) (1) b. of this section, shall be allocated equally among the 67 counties of the state.

ii. The entire residue of the counties share of the net tax proceeds, being an amount equal to 57.84 percent of the total net tax proceeds distributed to counties under subsection (a) (1) b. of this section, shall be allocated among the 67 counties of the state on the basis of the ratio of the population of each county to the total population of the state according to the then next preceding federal decennial census, or any special federal census heretofore held in any county subsequent to the effective date of the 1980 federal decennial census.

(2) The entire residue of the net proceeds remaining after compliance with subdivision (1) of this subsection shall be distributed as follows:

a. Seventy-two percent of the said residue, referred to in this subdivision, shall be distributed to the state of Alabama and shall be remitted by the judge of probate to the state treasurer;

b. Twenty-one percent of the said residue, referred to in this subdivision, shall be remitted by the judge of probate to the municipality in which the owner of the motor vehicle resides or with respect to which it is registered as required by law, or, if the said owner does not reside in, or the motor vehicle is not required by law to be registered with respect to, an incorporated municipality, then to the county in which the license tax or registration fee with respect to the said motor vehicle is paid; and

c. Seven percent of the said residue, referred to in this subdivision, shall be remitted by the judge of probate to the state treasurer and shall be apportioned by the state treasurer among the several counties of the state in an amount for each county that bears

the same relation to, and constitutes the same porportion of, the total of the said seven percent that the total number of motor vehicles registered in such county bears to the total number of motor vehicles registered in the entire state. The amounts so apportioned to each county shall be distributed by the state treasurer as follows:

1. Ten percent of the amount so apportioned to each county shall be distributed among the municipalities in the county with respect to which the apportionment is made, each such distribution to be on the basis of the ratio of the population of each such municipality to the total population of all municipalities in the applicable county according to the then next preceding federal decennial census; and

2. The remaining portion of the amount so apportioned to each county shall be distributed to the county to which such apportionment is made.

(b) Payment of the amounts herein provided to be distributed by the state treasurer to counties and municipalities shall be made monthly by state warrant and shall be mailed, in the case of such distribution to a county, to the county treasurer (or other officer or entity having the functions of a county treasurer) of that county and, in the case of a distribution to a municipality, to the treasurer of that municipality.

(c) Any municipality incorporated after September 30, 1967, shall not participate in the distribution provided for in this section until the fiscal year next succeeding the fiscal year during which it is incorporated. The population of any municipality incorporated subsequent to the taking of the then next preceding federal decennial census shall, until the effective date of the then next succeeding federal decennial census, be deemed to be the population shown by the census for that municipality taken pursuant to the requirements of section 11-41-4. For the purposes of this section, each federal decennial census shall be deemed to be effective on October 1 next following the publication of the results of such decennial census.

(d) The amounts remitted to the state treasurer pursuant to subdivision (2) of subsection (a) of section 40-12-269 and all moneys provided in this section to be distributed to the state of Alabama shall be covered into the treasury to the credit of the public road and bridge fund and disbursed as follows:

- (1) The amounts appropriated by the legislature out of the motor vehicle license taxes and registration fees for the payment of expenses of the state department of revenue in the collection of the said taxes and fees, including salaries, cost of tags and other costs of collection, shall be paid out of the portion of said taxes and fees that

is remitted to the state treasurer pursuant to subdivision (2) of subsection (a) of section 40-12-269;

(2) So much of the net proceeds distributed to the state of Alabama pursuant to the provisions of this section as shall be necessary for such purpose shall be used for the following purposes in the following order:

a. Payment of their respective maturities of the principal of and interest on bonds, other than refunding bonds, issued by Alabama highway authority under the provisions of Acts 1967, Ex. Sess., No. 225, p. 302;

b. Payment at their respective maturities of the principal of and interest on bonds, other than refunding bonds, issued by the said Alabama highway authority under the provisions of Acts 1969, No. 781, p. 1398;

c. Payment at their respective maturities of the principal of and interest on bonds, other than refunding bonds, issued by the said Alabama highway authority under the provisions of Acts 1971, No. 1416, p. 2414; and

d. Payment at their respective maturities of the principal of and interest on any bonds or other obligations, including refunding obligations, issued after December 1, 1977, by a public corporation existing at the time of issuance under the laws of Alabama pursuant to then existing statutory or constitutional authorization, or by the state of Alabama pursuant to authorization, effective at the time of issuance, under the Constitution and laws of the said state, and for which the said net proceeds referred to in this subdivision (2) shall have been appropriated and pledged in a then effective statute or constitutional provision (including any enabling act under a constitutional provision), all in the manner and to the extent and subject to such priorities in rank as may be provided in such statute or constitutional provision or in an authorizing resolution thereunder; and

(3) The balance of the moneys referred to in subdivisions (1) and (2) of this subsection remaining after compliance with the said subdivisions shall be used by the state highway department for construction and maintenance of public roads and bridges in the state and for any other purpose for which moneys in the public road and bridge fund may be lawfully used.

(e) (1) All moneys received by a municipality or county under this section, except that portion of the said moneys that constitute collections from additional amounts paid under the schedule of additional amounts set forth in subsection (b) of section 40-12-248 and distributed under subsection (1) (a) of this section, shall be used by such municipality or county exclusively for the construction, im-

provement and maintenance of public highways or public streets, including administrative expenses in connection therewith and retirement of securities evidencing obligations incurred for payment of costs of such construction, improvement and maintenance.

(2) All moneys received by a county under this section which constitute collections from additional amounts paid under the schedule of additional amounts set forth in subsection (b) of section 40-12-248 and distributed under subsection (1) (a) of this section shall be used by such county for the construction, including draining, grading, basing, paving, signing and erosion items, of certain high density unpaved roads as herein provided and for the construction or reconstruction of bridges on such high density roads. The use may also be for the reconstruction, resurfacing, restoration and rehabilitation of the paved county roads and bridges or bridge replacement on the county road system. The use may also be for the construction, including draining, grading, basing and paving of certain unpaved roads, and reconstruction of certain paved roads accessing certain public and private recreational facilities and areas.

There is hereby created a committee to be referred to as the Secondary Road Committee comprised of the chief of the bureau of secondary roads of the state highway department, two county engineers appointed by the state highway director and two county commission members appointed by the governor. The committee members shall serve at the pleasure of the appointing authority. The committee shall elect one of its members to serve as chairman. A quorum of the committee shall consist of no less than three members. Committee members shall serve without compensation.

The Secondary Road Committee shall develop and publish criteria for the designation of high density roads and bridges and for the designation of eligible recreational access roads. The committee may in its discretion provide different criteria for counties according to population, topography and road mileage. The committee shall also develop and publish minimum design standards, including allowable cost items, for the construction, reconstruction, surfacing, resurfacing, restoration and rehabilitation of such high density roads and bridges and recreational access roads. Criteria and standards developed by the committee shall be published by distributing printed copies thereof to the chairman of each county commission in Alabama no later than ninety (90) days after the effective date of this section. The committee may from time to time amend the criteria and standards developed provided that at least sixty (60) days notice is provided in writing to the chairman of each county commission before the effective date of such amendment. The state highway department shall provide all supplies and clerical help necessary for the committee to execute its responsibilities.

County commissions are hereby required to submit all plans for the use of such proceeds to the highway director or his designee for approval. The highway director or his designee shall review all plans and approve them or disapprove them, based on the criteria and standards developed by the committee.

The funds distributed to the counties under this subsection shall not be commingled with other funds of the county except the counties' portion of the inspection fee distributed under Section 8-17-91, Code of Alabama, 1975, as amended and shall be kept and disbursed by such county from a special fund only for the purposes hereinabove provided.

The provisions of this section notwithstanding, any county may at any time deposit all or any portion of such proceeds into the county's special RRR fund as provided for in § 40-17-224 and may use the proceeds so deposited for any purpose authorized under said section."

**Section 4.** This Act shall become effective on the first day of the second month immediately following the month in which said Act becomes a law.

Approved April 19, 1984

Time: 1:45 P.M.

Act No. 84-187

H. 578—Reps. Starr, Hooper, Mikell,  
Buskey (John), Holmes,  
McKee

### AN ACT

To exempt George Lindsey Celebrity Benefit, Inc., and the Alabama Special Olympics or any predecessor organizations or entities, from the payment of all state, county and municipal sales and use taxes.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The George Lindsey Celebrity Benefit, Inc., and the Alabama Special Olympics or any predecessor organizations or entities, are hereby exempt from paying any state, county or municipal sales or use taxes.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.



Approved April 24, 1984

Time: 2:00 P.M.

Act No. 84-188

H.J.R. 210—Rep. Holley

### HOUSE JOINT RESOLUTION

#### COMMENDING THE ENTERPRISE HIGH SCHOOL "WILDCAT" BAND.

WHEREAS, The Enterprise High School "Wildcat" Band has been designated by Governor George C. Wallace as the Official Representative of the State of Alabama to the 63rd annual Festival of States in St. Petersburg, Florida, on March 26 - April 7, 1984; and

WHEREAS, from 1981-82 the band took first place honors in both the Mid-Alabama Festival and the Peach State Festival and were the Grand Sweepstakes Champions at the Fountain City Festival; and

WHEREAS, from 1982-83 the band placed first All Superior at both the Deep South Festival and the Sunbelt Invitational and was selected to perform at College Band Directors National Convention in Atlanta; and

WHEREAS, from 1983-84 the band won first place honors All Superior at the Heart of Dixie Festival and the Southeastern States Festival; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Enterprise High School "Wildcat" Band be commended for its outstanding achievements and honors.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to Mr. William W. Hickman, Band Director, for his dedication and leadership of The Enterprise High School "Wildcat" Band.

Approved April 24, 1984

Time: 2:00 P.M.

Act No. 84-189

H.J.R. 211—Rep. Holley

### HOUSE JOINT RESOLUTION

# COMMENDING THE ELBA HIGH SCHOOL "MARCHING TIGER" BAND.

WHEREAS, The Elba "Marching Tiger" Band, which is made up of 96 members, has worked very hard to maintain the superior organization that has been developed over the years; and

WHEREAS, during the years 1981-82 they received a Superior Rating at the Hoover Invitation Marching Band Festival, the Southeastern States Marching Band Festival, the Enterprise Marching Band Festival, the ABA District Concert Band Festival, and the Alabama State Band Festival, and was selected to march in The 1982 World's Fair Parade and outdoor concert held in Knoxville, Tennessee; and

WHEREAS, during the years 1982-83 the "Marching Tiger" Band received a Superior Rating at the Southeastern States Marching Band Festival, the Southland Band Classic, the ABA District Concert Band Festival, and the Alabama Bandmasters State Band Festival, and were the Feature Band in "Main Street USA" Parade at Disney World; and

WHEREAS, during the years 1983-84 they received a Superior Rating and Best in Class at the Heart of Dixie Marching Band Festival, the Southeastern States Marching Band Festival, and the ABA District Concert Band Festival; and

WHEREAS, on April 7, 1984, the "Marching Tiger" Band will perform for the "Cherry Blossom Festival Parade" held in Washington, D.C. and are the only band from Alabama selected for this prestigious honor; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Elba High School "Marching Tiger" Band be commended for their outstanding achievements performed under the leadership of Band Director Steve Thompson.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Director Steve Thompson as a gesture of our fond commendation.

Approved April 24, 1984

Time: 2:00 P.M.

## AN ACT

To amend Section 2-15-133 which requires licensed livestock dealers to be covered by a bond or bond equivalent in amounts equal to purchases of livestock but in no amount less than \$10,000; to require the filing of verified financial statements; to require full payment of livestock not later than the close of the next business day; to exempt livestock dealers from the requirements of a bond or bond equivalent if they pay for livestock with United States currency, money orders or certified or cashier's checks at the time of purchase.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 2-15-133 is hereby amended to read as follows:

"§ 2-15-133. Bonds of dealers generally; bond equivalents; furnishing of financial statements and reports, maintenance of books and records, etc., by dealers; requirement as to payment for livestock purchased.

(a) No license as required under section 2-15-132 shall be issued or renewed until the applicant therefor shall make, execute and thereafter maintain on file with the commissioner a bond or a bond equivalent as provided in subsection (f) of this section in favor of the state of Alabama or a trustee to be approved by the commissioner to secure the performance of obligations incurred in the state of Alabama and the payment thereof to persons from whom such dealer purchases livestock. Except as otherwise provided in this subsection, the amount of each bond shall be not less than the next multiple of \$2,000.00 above the average amount of purchases of livestock purchased either as a dealer or on an agency basis in Alabama during a period equivalent to two business days based on the total number of business days and the total amount of such transactions during the preceding 12 months or in such substantial part thereof in which the applicant did business. For the purpose of this computation, 260 shall be deemed the number of business days in any year. Bonds above \$26,000.00 shall be not less than the next multiple of \$5,000.00 above the average amount of livestock purchased either as a dealer or on an agency basis in Alabama, computed as set out in this subsection. When the amount of a bond, calculated as required in this subsection, exceeds \$50,000.00, the amount of the bond shall not exceed \$50,000.00 plus 10 per cent of the excess, unless the commissioner has reason to believe that a bond in such amount is adequate because of the volume of business conducted on a seasonal or otherwise irregular basis, in which event the commissioner shall determine and specify the amount of the bond to be required.

(b) In no case shall a bond covering the buying operations of a dealer be less than \$10,000.00.

(c) If the applicant is a successor in business to a dealer sub-

ject to the requirements of this article, the bond of such applicant shall be in an amount not less than that required of the prior dealer, unless the commissioner finds that the amount of such a bond will be excessive and unnecessary. If the applicant has not been previously engaged in the business of a dealer subject to the requirements of this article, the bond of such applicant shall be in an amount equivalent to the estimated value of livestock purchases which it is anticipated such applicant will make during any two business days during the succeeding 12 months; provided, however, that the amount of such bond shall be subject to adjustment from time to time in accordance with the provisions of subsection (e) of this section.

(d) Bonds required by subsection (a) of this section shall be conditioned that the dealer or principal shall pay, when due to the person or persons entitled thereto, the purchase price of all livestock purchased in the state of Alabama by said dealer-principal shall safely keep and properly disburse all funds, if any, which come into his hands for the purpose of paying for livestock purchased for the account of others. Bonds required by subsection (a) of this section shall be written by a surety company qualified to do business in Alabama. Any person having a cause of action against a dealer for breach of the condition of the bond may bring a civil action against the principal and surety of such bond in any court of competent jurisdiction for recovery of the loss resulting from such breach of the condition of the bond; provided, however, that the aggregate liability of the surety for all such losses shall not exceed the amount of the bond. The bond shall contain a provision requiring not less than 15 days' written notice to the commissioner by the party terminating such bond in order to effect its termination.

(e) Whenever the commissioner finds that any bond required under this section is inadequate, such bond, upon notice from the commissioner, shall be increased to meet the requirements of this section or, in like manner, may be reduced if found to be in excess of the requirements of this section; provided, however, that the amount of such bond shall not be increased or reduced by the commissioner, nor shall the amount of any bond be increased under authority of subsection (a) of this section unless and until the state board of agriculture and industries adopts and promulgates rules and regulations prescribing the conditions under which bond increases or reductions will be required by the commissioner. Such rules and regulations shall prescribe a uniform method and procedure to be followed by the commissioner in determining the amount of any bond increases or reductions that may be ordered by the commissioner because of being inadequate or excessive. All such bond increases and reductions as ordered by the commissioner as authorized

under this subsection shall be reviewed by the board at its next quarterly or special call meeting for the purpose of determining whether the action of the commissioner in requiring an increase or reduction in the amount thereof is in compliance with the rules and regulations as prescribed by the said board for this purpose.

(f) A bond equivalent may be filed or maintained in lieu of a bond. A bond equivalent shall be in the form of a trust fund agreement based upon cash or fully negotiable bonds of the United States government or of the state of Alabama. All provisions of this section relating to making, executing, filing and maintaining bonds on file with the commissioner shall be applicable to such trust fund agreements.

(g) The above requirements for a bond or bond equivalent may be waived provided the dealer, "at the time of purchase", pays for all livestock purchased with United States currency (cash), money orders or cashier's or certified checks. The dealer may also be required to submit verified statements to this effect.

(h) Every person engaged in the business of a dealer, as defined in section 2-15-131, shall furnish annually and at such other times as the commissioner may designate or request verified financial statements and reports showing the volume and value of livestock purchased in Alabama and the names and addresses of all employees authorized to purchase livestock for such person and shall keep such books and records as the commissioner may require as being reasonably necessary to carry out the provisions and requirements of this section, and the commissioner or his duly authorized agent or agents shall have access to such books and records during the regular business hours of any business day for the purpose of examination, inspection, audit or investigation of such dealer's operations. Any person who submits false information in making any report required under this subsection or who refuses the commissioner or his authorized agent access to such books and records as are required to be kept under this subsection shall be subject to the provisions of section 2-15-136.

(i) Every person engaged in the business of a dealer, as defined in section 2-15-131, shall make full payment of the amount of each purchase of livestock to the person from whom such purchase was made not later than the close of the next business day following the date of such purchase.

(j) Every person engaged in the business of a dealer as defined in section 2-15-131(5) shall, with regard to any purchase of livestock made by such dealer at a livestock market regulated by sections 2-15-60 through 2-15-71, be liable for the payment of the amount of each such livestock purchase made by such dealer whether the

purchase was made by the dealer on his own account or as an agent for another, and with respect to such livestock purchases made as an agent for another, such liability shall exist without regard to the fact that the other party for whom the purchase was made shall also be liable for the payment of the amount of such purchase.

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 24, 1984

Time: 2:00 P.M.

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Act No. 84-191

H. 379—Reps. Coleman, Dutton, Newman

### AN ACT

To require city and county boards of education, the State Board of Education, the Department of Youth Services, the Alabama Institute for Deaf & Blind and the governing boards of Alabama's public senior universities to provide vehicle liability insurance to cover personal liabilities of moving vehicle accidents for bus drivers or any employee required to transport pupils.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The State Board of Education, each governing board of Alabama's public senior universities and each city and county board of education shall provide vehicle liability insurance for bus drivers or any other employee who is required to transport pupils. Said vehicle liability insurance shall cover personal liabilities for bus drivers or any other employee who is required to transport pupils. Said liability insurance shall be applicable to moving vehicular accidents only.

**Section 2.** School boards and other agencies covered by this act shall be deemed to be in compliance with the requirements of this Act by either purchasing a liability insurance policy naming drivers as insureds, or if the employing board elects not to purchase a policy, by reimbursing individual employees for amounts necessary to add "drive other car broad form liability" riders to their individual vehicle liability insurance policies, to the limits specified by the employing board or agency.

**Section 3.** The provisions of this Act shall also apply to the Alabama Department of Youth Services and the Alabama Institute for Deaf and Blind.

**Section 4.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 5.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** This Act shall become effective upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved April 24, 1984

Time: 2:00 P.M.

Act No. 84-192

H.J.R. 161—Rep. White (L)

### HOUSE JOINT RESOLUTION

DESIGNATING THE WEEK OF JUNE 3RD THROUGH 9TH, 1984, AS "ALABAMA RECYCLING WEEK".

WHEREAS, manufacturing plants and maintenance facilities in the State of Alabama annually produce and dispose of hundreds of thousands of tons of scrap metal; and

WHEREAS, without an established Metallic Scrap Processing Industry in Alabama, these metallic discards would be added to the solid waste stream, littering the landscape and filling Alabama landfills; and

WHEREAS, in addition to reducing litter, every ton of ferrous scrap recycled by the Metallic Scrap Processing Industry within the State of Alabama conserves one and one-half tons of iron ore and one-third of a ton of coal or coke which are irreplaceable natural resources; and

WHEREAS, the Metallic Scrap Processing Industry provides employment to over one thousand Alabamians and annually pumps millions of dollars into the State's economy; and

WHEREAS, the Alabama Recycling Association was organized for the purpose of encouraging recycling, reducing litter and conserving energy and natural resources; and

WHEREAS, the Alabama Recycling Association also is involved in Environmental Management and Educational Programs; and

WHEREAS, the Metallic Scrap Processing Industry in Alabama is to be commended for its efforts in recycling industrial wastes, aluminum, glass and other metal items; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby des-

ignate the week of June 3 through 9, 1984, as "Alabama Recycling Week."

Approved April 24, 1984

Time: 2:00 P.M.

Act No. 84-193

H.J.R. 183—Reps. Harper, Gaston,  
Kvalheim, Marietta,  
Box, Zoghby, Clark  
(W), Turner,  
Kennedy

### HOUSE JOINT RESOLUTION

**RECOGNIZING THE ALABAMA DEEP SEA FISHING RO-  
DEO AS A SPORTS EVENT OF NATIONAL PROMINENCE.**

WHEREAS, the Alabama Deep Sea Fishing Rodeo is the official Deep Sea Fishing Rodeo in and for the State of Alabama, by Gubernatorial proclamation and by designation of the Alabama Legislature; and

WHEREAS, in July 1984, the 52nd Alabama Deep Sea Fishing Rodeo will take place at Dauphin Island, Alabama, once again attracting a host of out-of-state participants as well as our own Alabama anglers; and

WHEREAS, since 1929 and the Rodeo's inception, this event has served both to stimulate the local economy and to focus our nation's spotlight on the State of Alabama; and

WHEREAS, the Alabama Legislature, as well as Alabamians statewide, take great pride in this outstanding attraction which was the first competitive fishing event in America ever to be dubbed a rodeo, and one which has grown from its first 260 participating sports fisherman to a total now numbering in the thousands; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That in utmost personal pride, we hereby recognize the Alabama Deep Sea Fishing Rodeo as a sports event of national prominence; we further most cordially welcome the 1984 participants to Alabama and to our beautiful Gulf Coast area.

**BE IT FURTHER RESOLVED,** That copies of this resolution be forwarded to the Executive Committee and Board of Directors of



the Alabama Deep Sea Fishing Rodeo and to the event's sponsor, the Mobile Jaycees.

Approved April 24, 1984

Time: 2:00 P.M.

Act No. 84-194

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H.J.R. 197—Reps. Cosby, Adams, Albright, Bachus, Beers, Biddle, Black, Blake, Blakeney, Boles, Bowling, Box, Brakefield, Britnell, Brooks, Browder, Bryant, Bugg, Burke, Buskey (James), Buskey (John), Butler, Campbell, Carothers, Carter, Clark (D), Clark (J), Clark (W), Coburn, Coleman, Crow, Davis, Drake, Dutton, Escott, Faulk, Flowers, Ford, Fuller, Gaston, Goodwin, Gray, Grayson, Grimsley, Grouby, Hall, Hammett, Harper, Harvey, Hettinger, Holmes, Hooper, Horn, Johnson (R.G.), Johnson (Roy), Junkins, Kennedy, Kvalheim, Laird, Lauderdale, Lindsey, McDowell, McKee, McMillan, McNair, Marietta, Martin, Mathis, Melton, Mikell, Mitchell, Moore, Newman, Nicholson, Onderdonk, Parker, Payne, Penry, Perdue, Poole, Pratt, Preuitt, Rains, Reed, Rice, Richardson, Rogers, Sasser, Seibels, Smith, Spratt, Starkey, Starr, Tanner, Thomas, Trammell, Turner, Turnham, Venable, Warren, White (F), White (G), White (L), Zoghby

#### HOUSE JOINT RESOLUTION

WISHING MRS. MARY HOLLEY A SPEEDY RECOV-

ERY.

WHEREAS, the Legislature of Alabama expresses deep regret in the illness of Mrs. Mary Holley who is hospitalized in Montgomery's Baptist Hospital following surgery; and

WHEREAS, we are indeed happy to learn that the prognosis for her complete recovery is excellent and, hopefully, she soon will be able to return to her home in Elba; and

WHEREAS, though Mrs. Holley, of course, is the wife of our colleague, Representative Jimmy Holley, she also is our close friend of many years and her quick return to good health is foremost in our minds and hearts; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we sincerely wish Mrs. Mary Holley the very speediest possible recovery and direct that she receive a copy of this resolution, expressing our sincere regard for her as our personal and valued friend.

Approved April 24, 1984

Time: 2:00 P.M.

Act No. 84-195

H.J.R. 206—Reps. Newman, Black, Cosby

### HOUSE JOINT RESOLUTION

COMMENDING MR. JAMES P. HOMER FOR OUTSTANDING CONTRIBUTIONS TO LIVINGSTON UNIVERSITY.

WHEREAS, The May 1984 retirement of Mr. James P. Home will bring to a close a distinguished tenure of some 35 years in association with Livingston University; and

WHEREAS, retiring as executive vice president at Livingston, Mr. Homer also serves as advisor to the Student Government Association, Interfraternity Council and Blue Key national honor fraternity; and

WHEREAS, Mr. Homer has held former positions as teacher and coach, as chairman of the Department of Health, Physical Education, and Recreation, Athletic Director, Dean of Men and Dean of Students; and

WHEREAS, included among Mr. Homer's committee assignments at Livingston University, many of which he chaired, are the Security, Inter-Racial, Discipline, Athletic, Institutional Research, Admission and Retention, Publications and Freshman Studies committees; and

WHEREAS, Mr. Homer is the recipient of a number of prestigious honors, including Outstanding Educators of America, the Distinguished Service Award of the Livingston University National Alumni Association and the Outstanding Faculty Award; he further has been distinguished with the establishment, in his honor, of the James P. Homer Award for Athletics, the James P. Homer Outstanding Organization Award and the James P. Homer Scholarship Award; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein express highest commendation of Mr. James P. Homer, for extraordinary and distinguished service to Livingston University.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided for Mr. Homer, in expression of the Legislature's deep gratitude and esteem, and in extension of sincere best wishes for every continuing success in life.

Approved April 24, 1984

Time: 2:00 P.M.

Act No. 84-196

H.J.R. 207—Reps. Moore, Turner

### HOUSE JOINT RESOLUTION

COMMENDING MISS TERESA LYNN CHAPPEL OF STERRETT, ALABAMA, MISS ALABAMA USA TEEN.

WHEREAS, the Legislature of Alabama, in consensus of commendation, extends heartiest congratulations to Miss Teresa Lynn Chappell who currently reigns as Miss Alabama USA Teen; and

WHEREAS, Miss Chappell, who is the daughter of Mr. and Mrs. Frank Chappel of Sterrett, Alabama, is an eighteen year old senior at Chelsea High School where she excels academically and participates in numerous school-related and extra curricular activities; and

WHEREAS, she has served as president of both the Junior Class and the Junior Beta Club, as Student Council Representative, member of the annual staff and was elected to Senior Who's Who; and

WHEREAS, Miss Chappell, in addition to Miss Alabama USA Teen, also has been honored as Miss Chelsea High School, Miss Shelby County Agriculture, Miss Chelonet, and as one of the top ten finalists in the Shelby County Junior Miss Pageant; and

WHEREAS, she is a member of Mount Signal Baptist Church and also includes piano, singing and cooking among other activities and hobbies; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Miss Teresa Lynn Chappel for outstanding achievement; we further congratulate her, with great pride, as Miss Alabama USA Teen and direct that she receive a copy of this resolution in token of our regard and with best wishes for every future success in life.

Approved April 24, 1984

Time: 2:00 P.M.

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Act No. 84-197

H.J.R. 208—Rep. Mikell

### HOUSE JOINT RESOLUTION

COMMENDING MISS HEATHER BRYANT OF COOSADA, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, in a desire to recognize outstanding achievement by Alabama's young citizens, the legislature today notes the many notable accomplishments of Miss Heather Bryant of Coosada, Alabama; and

WHEREAS, Miss Bryant, a seventeen-year old senior and honor student at Montgomery's Saint James School, is a National Merit Scholarship Finalist, 1983 summer Exchange Student to Holland, Who's Who Among American High School Students, member and vice president of the National Honor Society and was included in the United States Achievement Awards Yearbook; and

WHEREAS, she further is a member and/or officer in a number of her school's academic and extra-curricular organizations and is an accomplished musician and student of the dance, as well, with numerous awards, accolades and honors attesting to her talent and extraordinary ability; and

WHEREAS, Miss Bryant, a member of Saint James' 1983 Homecoming Court and first runner-up for Elmore County's Junior Miss, is a member of the choir of Saint Michael and All Angels Episcopal Church, has served for two years as pianist for the Montgomery School of Ballet and is self-employed as a piano, clarinet and math teacher; and

WHEREAS, as a result of Miss Bryant's singular achievement,

and most particularly in academic endeavors, she was selected to receive a four-year Air Force ROTC scholarship and an Alumni Scholarship to the University of Alabama, but has elected instead to accept an appointment to the United States Naval Academy where she plans to major in aerospace engineering; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein express highest commendation of Miss Heather Bryant of Montgomery's Saint James School and further extend our sincere congratulations on her appointment to the U. S. Naval Academy.

BE IT FURTHER RESOLVED, That Miss Bryant receive a copy of this resolution that she and her parents, Mr. and Mrs. Preston Bryant, and other family may know of our sincere praise and warm best wishes for Heather's every future success in life.

Approved April 24, 1984

Time: 2:00 P.M.

Act No. 84-198

H.J.R. 209—Rep. Gaston

### HOUSE JOINT RESOLUTION

COMMENDING JOHN SHAW HIGH SCHOOL, MOBILE, ALABAMA, ON THE 20TH ANNIVERSARY OF ITS FOUNDING.

WHEREAS, John Shaw High School in Mobile, Alabama, is celebrating its 20th Anniversary in 1984; and

WHEREAS, since its inception, John Shaw High School's graduates have assumed, and continue to assume, leadership positions in the community; and

WHEREAS, the curriculum of John Shaw High School is providing for the needs of these future leaders as evidenced by the student body's achievement above national and state norms in the California Achievement Test profiles and the Alabama Basic Skills Test graphs, respectively; and

WHEREAS, as of 1982-83, John Shaw High School had more National Merit Semi-finalists than any other Mobile County public school and, in 1983, more National Merit Finalists than any other public or private school in the county; and

WHEREAS, it is further to be noted that more than 80% of the student body at John Shaw High School aspire to careers requiring post-high school education and/or training; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of excellence of education, we herein express highest commendation of John Shaw High School, Mobile, Alabama, and direct that copies of this resolution be provided for appropriate distribution and display.

Approved April 24, 1984

Time: 2:00 P.M.

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Act No. 84-199

S. 11—Senator Teague

### AN ACT

To make an additional appropriation to the Alabama Real Estate Commission from the Alabama Real Estate Commission Fund which is on deposit in the state treasury, for salaries and other expenses for the fiscal year ending September 30, 1984.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated to the Alabama Real Estate Commission from the Alabama Real Estate Commission Fund which is on deposit in the state treasury, in addition to all other funds heretofore appropriated, the sum of \$75,000 for salaries and other expenses for the fiscal year ending September 30, 1984.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 24, 1984

Time: 2:00 P.M.

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Act No. 84-200

S.J.R. 157—Senator Teague

### SENATE JOINT RESOLUTION

DESIGNATING THE WEEK OF APRIL 23-27, 1984, AS "ALABAMA STUDENT LEADERSHIP WEEK."

WHEREAS, more than ten million young Americans are participating in cocurricular activities in secondary schools across the Nation; and

WHEREAS, these activities, which include student government, speech, debate, music, journalism, science, and mathematics clubs,

academic, vocational, and other student organizations, contribute greatly to developing leadership qualities in our youth; and

WHEREAS, these students will be our Nation's future leaders; and

WHEREAS, it is in the national interest to promote increased emphasis in our students' well-rounded education, which includes a rigorous academic experience and successful leadership experiences in the school setting; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the week of April 23-27, 1984, is designated as "Alabama Student Leadership Week" and the Governor of the State of Alabama is authorized and requested to issue a proclamation calling upon the citizens of the State of Alabama, local government officials, and interested groups to observe that week by engaging in appropriate ceremonies, activities, and programs, thereby demonstrating their support for our students' overall education.

Approved April 24, 1984

Time: 2:00 P.M.

Act No. 84-201

S.J.R. 158—Senators Langford and Dixon

### SENATE JOINT RESOLUTION

COMMENDING MR. FRANK J. SEGO, MONTGOMERY CIVIC LEADER AND MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL EXCHANGE CLUB, ON HIS CANDIDACY FOR PRESIDENT-ELECT OF AMERICA'S EXCHANGE CLUBS.

WHEREAS, it is with a deep sense of pride and pleasure that we commend Mr. Frank J. Sego of Montgomery, Alabama, as he becomes a candidate for the high office of President-Elect of the National Exchange Club at its 66th annual convention to be held in the City of Dallas, Texas, in June, 1984, and

WHEREAS, Mr. Sego has brought honor and distinction to the State of Alabama by serving with dignity and enthusiasm during the past four years as a member of the board of directors of the National Exchange Club. Where he has taken a leadership role in the adoption of a number of programs of service that directly benefit the people of Alabama and the Nation; and

WHEREAS, Frank Sego became a member of the Exchange

Club of Montgomery in 1966 and immediately involved himself in service to his community through active support of the programs offered by the Exchange Club; and

WHEREAS, Mr. Sego became president of his Exchange Club in 1970; served as a District Director for Alabama from 1972-75; was elevated to the office of President-Elect of the Alabama District in 1975-76; becoming president in 1976; and

WHEREAS, Frank Sego was honored by being named most Outstanding Exchangite in Montgomery; as an Outstanding District Director in the Nation and as the outstanding Alabama Exchangite before being elected to the National Board on the first ballot in 1980; and

WHEREAS, the said Frank Sego has an enviable record of leadership through his numerous civic endeavors in Montgomery. He currently serves as president of Keep Montgomery Beautiful and the Tumbling Waters Museum of Flags; he has served as chairman of Montgomery's Crime Prevention Commission; as president of the Sales and Marketing Executives and presently serves on the board of trustees of the St. James School; the Family Violence Center and as treasurer of the Voluntary Action Center - in addition to his duties as legislative liaison for the Alabama Forestry Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA that we overwhelmingly endorse the candidacy of Frank J. Sego for the office of President-Elect of the National Exchange Club and further recommend that members of Exchange Clubs throughout America rally to the support of this outstanding Alabama civic leader.

BE IT FURTHER RESOLVED That a copy of this resolution be circulated to appropriate officials of the National Exchange Club.

Approved April 24, 1984

Time: 2:00 P.M.

Act No. 84-202

S.J.R. 165—Senators Parsons, Aldridge, Amari, Bailey, Barron, Bedford, Bedsole, Bennett, Bishop, Cabaniss, Cooley, Corbett, Covington, deGraffenried, Denton, Dial, Dixon, Drinkard, Ellis, Figures, Foshee, Goodwin, Hand, Hilliard,



Holmes, Langford, Little,  
Menton, Mitchem,  
Pearson, Sanders, Smith  
(B), Smith (J), Strong and  
Teague

### SENATE JOINT RESOLUTION

HONORING POSTHUMOUSLY ALABAMIANS RILEY W. SHAMBURGER, WADE GRAY, THOMAS W. RAY AND LEO BAKER.

WHEREAS, April 17, 1984, marks the 23rd anniversary of the invasion of Cuba's Bay of Pigs, a courageous action in the cause of freedom and an attempt to overthrow the communist regime of Premier Fidel Castro; and

WHEREAS, Cuban exiles, who were trained, armed and directed by the United States in their liberation efforts, were joined by a number of courageous American volunteers, including some sixteen Alabama patriots; and

WHEREAS, regrettably, among the casualties of this combat mission were Major Riley W. Shamburger, Mr. Wade Gray, Lieutenant Thomas W. Ray and Mr. Leo Baker, four Alabama civilians who bravely gave their lives in the name of liberty; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in honor and gratitude, and in recognition of their outstanding courage, we today pay tribute to Major Riley W. Shamburger, Mr. Wade Gray, Lieutenant Thomas W. Ray and Mr. Leo Baker.

BE IT FURTHER RESOLVED, That copies of this resolution be forwarded to the families of these four distinguished Alabamians that they may know the qualities of courage and patriotism live forever in memory and in honor.

Approved April 24, 1984

Time: 2:00 P.M.

Dial, Dixon, Drinkard,  
 Ellis, Figures, Foshee,  
 Goodwin, Hand, Hilliard,  
 Holmes, Langford,  
 Menton, Mitchem,  
 Parsons, Pearson,  
 Sanders, Smith (B),  
 Smith (J), Strong and  
 Teague

### SENATE JOINT RESOLUTION

CONGRATULATING DR. JAMES E. MARTIN, PRESIDENT, AUBURN UNIVERSITY.

WHEREAS, Dr. James E. Martin has been serving as President of Auburn University since February 15, 1984; and

WHEREAS, he came back to his native state after many years filled with academic accomplishments at several institutions including serving as President of the University of Arkansas System; and

WHEREAS, Dr. Martin has traveled throughout the state meeting with alumni and friends of the University, talking about the value of higher education as well as the future of Auburn University; and

WHEREAS, this man will help provide the kind of leadership which is necessary for our state to reach its potential in economic development and progress; and

WHEREAS, Dr. Martin will be formally inaugurated as the fourteenth President of Auburn University on April 27, 1984; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we congratulate Dr. Martin and wish him many years of productivity and happiness at Auburn University and in the State of Alabama.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to Dr. Martin and his family that they will know the Legislature's high regard for him.

Approved April 24, 1984

Time: 2:00 P.M.

## AN ACT

To authorize the Clerk of the House and the Secretary of the Senate to employ certain legislative personnel.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Clerk of the House and the Secretary of the Senate are hereby authorized to appoint an administrative assistant to the clerk and an administrative assistant to the secretary respectively. Said administrative assistant to the clerk and administrative assistant to the secretary shall serve at the pleasure of the appointing authority and shall be paid from funds appropriated to the legislature in amounts not to exceed the compensation payable to the administrative assistants of the presiding officers of each house.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 24, 1984

Time: 2:00 P.M.

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Act No. 84-205

H. 226—Rep. Clark (J)

## AN ACT

To amend Section 29-4-44 Code of Alabama 1975, which provides for the employment of secretaries employed for the Presiding Officer of each house of the Legislature so as to further provide for additional secretaries.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 29-4-44 Code of Alabama 1975, is hereby amended to read as follows:

“§ 29-4-44. In addition to those employees of the legislature provided in this article, the presiding officers of each of the two houses, respectively, shall be authorized to employ one administrative assistant and to fix the salary of such assistant, but such salary shall not exceed the maximum amount of \$22,000.00. Also, the presiding officers of each of the two houses, respectively, shall be authorized to employ three secretarial employees and to fix the rate of compensation for such employees, but such rate of compensation shall not exceed the maximum amount as has heretofore or as may hereafter be allowed by law to be paid full-time supervisory employees. The compensation of such administrative assistants and secretarial employees for the presiding officers shall be payable as the salaries of other state employees are paid. In addition to the above

employees, the presiding officer of the Senate shall be authorized to employ two additional full-time secretaries, one to be assigned to the office of the President Pro Tempore of the Senate and the other to the Senate Committee on Rules. The presiding officer of the House of Representatives shall be authorized to employ two full-time secretaries, one to be assigned to the House Committee on Rules and the other to such other committee as he may designate. The rate of compensation for these additional secretaries provided for the presiding officers of the Senate and the House of Representatives shall be paid at a rate of compensation not to exceed the maximum amount as may heretofore or may hereafter be allowed by law as provided for the secretaries in Section 29-4-49."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 24, 1984

Time: 2:00 P.M.

Act No. 84-206

S. 321—Senators Foshee, Corbett, Parsons,  
Covington, Bennett, Dial,  
Cabaniss, and Amari

### AN ACT

To establish service territories for electric suppliers within the State; to provide the means of eliminating or reducing the potential for duplication of electric distribution facilities used for furnishing retail electric service; to mandate and implement the determination of which electric supplier shall furnish retail electric service to electric customers within various areas of the State including areas within present and future corporate limits of municipalities; to provide that the primary electric supplier within each municipality in the State shall have the right, at its option, to purchase all distribution facilities of any secondary electric supplier used to supply retail electric service within the existing municipal limits and have the right to serve all premises within the existing municipal limits, subject to certain conditions; to define the right and obligation of municipalities and municipally-owned electric suppliers to provide electric service in areas outside the existing municipal limits; to provide for resolution of disputes between electric suppliers regarding sale or purchase of electric facilities; to provide for the applicability of certain provisions of Title 37, Code of Alabama (1975); to provide exemptions from the provisions of this Act for certain agreements between electric suppliers; to prohibit the providing of electric service in violation of this Act; to provide for judicial review and validation of the provisions of this Act by the courts and sets out procedures governing such proceedings and appeals therefrom; provides that the provisions of the Act are not severable and that if any provision is declared invalid under state law, the remaining provisions also shall be invalid, and further provides that if the Act is declared invalid, any actions taken by any party in conformity with the provisions of the Act shall be lawful but that any electric service rendered pursuant to the provisions of the Act shall be terminated; and to repeal all laws or parts of laws in conflict herewith.

*Be It Enacted by the Legislature of Alabama:*

**Section 1. Declaration of Findings and Policy**

The Legislature of the State of Alabama has investigated the economic, financial and environmental impact associated with the potential for duplication of electric distribution facilities used for the furnishing of retail electric service. Among its findings are the conclusion that with respect to retail electric sales, the benefit normally associated with competition between two or more entities for customers is outweighed by the tremendous cost burden which must be borne by such customers associated with the maintenance of two or more duplicate sets of facilities. It is the further finding of the Legislature that the existence of duplicate facilities for the furnishing of electricity at retail is not in the public interest because of the adverse impact which such duplication has on environmental and aesthetic values and on safety. It is therefore declared that the policy of the State of Alabama is to ensure effective, economical and orderly supply of electric service at retail to customers in the State and to avoid unnecessary duplication of facilities by electric suppliers for the furnishing of such services which would result in waste and in degradation of the environment. To accomplish these objectives, it is necessary and in the public interest to establish, mandate and implement procedures for determining which electric supplier shall furnish electric service to customers at retail within various areas of the State including areas within present and future corporate limits of municipalities in the State.

**Section 2. Definitions**

(a) "Electric supplier" means any municipality, municipally-owned utility or other governmental entity, any cooperative, corporation, person, firm, association or other entity engaged in the business of supplying electric service at retail; provided, however, that a university, college or United States military base which distributes electricity shall not be deemed an electric supplier for the purpose of this Act.

(b) "Electric service at retail" and "retail electric service" means electric service furnished to a customer for ultimate consumption, but does not include wholesale electric service furnished by an electric supplier to another electric supplier for resale.

(c) "Premises" means the building, structure or facility to which electricity is being metered or is to be furnished and metered, including all meters on such building, structure or facility through which electricity is delivered or to be delivered. Such term shall also include any building, structure or facility which is reconstructed to replace a previously existing building, structure or facility of sub-

stantially the same size. In the event two or more buildings, structures, or facilities are located on one tract of land utilized by one customer, those buildings, structures, or facilities which are or will be served through a different meter shall be considered a separate premises.

(d) "Distribution line" means an electric conductor which is operated at 35,000 volts or less, up to but not including the service drop. The service drop shall be that line from the last pole or last transformer on the distribution system to the premises.

(e) "Existing distribution line" means a distribution line in existence on January 1, 1984.

(f) "Primary electric supplier" means that electric supplier for each municipality existing on January 1, 1984 serving a plurality of the premises within the existing municipal limits to which service is actually being supplied and metered on January 1, 1984.

(g) "Secondary electric supplier" means any electric supplier serving within existing municipal limits which is not the primary electric supplier.

(h) "Existing municipal limits" means the corporate boundaries of any municipality as such boundaries existed on the effective date of this Act.

(i) "Reproduction cost new less depreciation" means the total investment that would be required by the electric supplier selling the facilities to duplicate the facilities to be sold at the time of such sale utilizing then current costs for all materials, supplies, labor, land and land rights, transportation, and miscellaneous direct and indirect expenses (including overhead, engineering and supervision costs that are normally capitalized) that would be required; the costs that would be required to obtain all necessary approvals and permits; and any other costs that would be appropriately applicable to the reproduction of the facilities, less an amount representing the straight line depreciation of such reproduction costs of any depreciable items over an assumed life of thirty years for electric distribution facilities for that period of time equal to the age of the items of the electric distribution facilities being transferred. In no event, however, shall any item be depreciated more than 30% of the reproduction costs new of that item, so that in no event shall reproduction cost new less depreciation be less than 70% of the reproduction cost of such item.

(j) "Industrial Customer" means a customer utilizing electric service at a premises at which the predominate activity is classified as mining; manufacturing; transportation, communication, electric gas and sanitary services; or miscellaneous repair services in the

Standard Industrial Classification Manual, Part I, Divisions B, D and E and Major Group 76 of Division I as published in 1972 by the Statistical Policy Division of the United States Office of Management and Budget.

### **Section 3. Electric Service Outside Existing Municipal Limits**

Except as otherwise provided in Sections 3(b), 3(c), and 3(d) in areas outside existing municipal limits (including areas annexed to municipalities on or after the effective date of this Act), no electric supplier shall construct or maintain electric distribution lines for the provision of retail electric service to any premises being provided retail electric service by another electric supplier, or to any new premises located within the boundaries of assigned service areas of another electric supplier, even if the premises is within municipal limits and the electric supplier in whose assigned area the premises is located has no franchise from the municipality in which such premises is located. Assigned service areas outside existing municipal limits are hereby established as set forth in this Section 3.

(a) Except as specified in Sections 3(b) and 3(c) herein, each electric supplier is hereby assigned the sole obligation, in accordance with its established rules and regulations, in areas outside existing municipal limits (including areas annexed to municipalities on or after the effective date of this Act whether or not a franchise has been granted by the municipality to the electric supplier to whom an area annexed has been assigned or to any other electric supplier), for provision of retail electric service to all new premises located in closer proximity to existing distribution lines of such supplier than the nearest existing distribution lines of any other electric supplier. No other electric supplier shall render electric service to such premises. Thus, the assigned service area of each electric supplier in areas outside existing municipal limits is defined as the area or areas consisting of a line or lines drawn equidistant between the existing distribution lines of such electric supplier and the nearest existing distribution line of any other electric supplier. Where a premises is located in the assigned service area of two electric suppliers, the supplier in whose assigned area the majority of the square footage of the premises falls shall provide the service. The above assignment shall also apply to areas within the existing municipal limits in the event the primary electric supplier fails to exercise the option to purchase set forth in Section 4.

(b) Notwithstanding the above limitations stated in this Section 3 on construction of facilities to serve customers in areas outside existing municipal limits, an electric supplier may construct, operate and maintain facilities for provision of retail electric service

to any new industrial customer not presently or previously served by another electric supplier, in an area outside existing municipal limits where the initial electric service requirement to such industrial customer, under normal operations and with a six (6) month growth period permitted from date of initial service, is equal to or greater than 2500 kilowatts as measured over a fifteen (15) minute integrated period, upon written request to such electric supplier by the industrial customer to be served.

(c) Notwithstanding Section 3(b) hereof, no municipality of municipally-owned electric supplier shall provide retail electric service in any area outside existing municipal limits unless the premises to be so served is in the assigned service area of such electric supplier.

(d) The foregoing limitations shall not prevent an electric supplier from constructing electric facilities to serve its own premises used or to be used in its electric operations and other premises owned and occupied solely and exclusively by the electric supplier, or a municipality which appoints the governing body of such electric supplier or any agency of said municipality whose governing body is appointed by that municipality.

(e) Within nine months after the effective date of this Act, all electric suppliers having existing distribution lines in each county in the State shall exchange maps of such facilities (as of January 1, 1984) located within the county. These maps shall be sufficiently detailed to permit the development of a definitive understanding of the electric supplier designated to serve under the guidelines set forth in Section 3(a) above. The legislature recognizes that the vast majority of existing distribution lines within existing municipal limits will have no effect on the assigned service areas determined in accordance with this Section 3 and electric suppliers may, at their option, elect not to show existing distribution lines which do not affect the assigned service areas.

(f) Neither (i) municipal annexations after the effective date of this Act, nor (ii) the construction or removal of any facilities after January 1, 1984, nor (iii) the purchase or sale of any facilities after the effective date of this Act consummated under the provisions of this Act shall affect any rights or limitations regarding retail electric service under this Section 3. Any annexation by a municipality pursuant to the laws of this State shall be subject to and conditioned upon recognition of the provisions of this Act.

#### **Section 4. Retail Electric Service Within Municipalities**

(a) **Primary Supplier's Option to Acquire Facilities Within Existing Municipal Limits.**



The primary electric supplier within each municipality shall, at its option, have the right to acquire all distribution facilities of any secondary electric supplier used to supply retail electric service within the existing municipal limits and shall have the right to serve all premises within the existing municipal limits of such municipality subject to the following:

(1) The primary electric supplier must announce its intention to exercise its option in writing by registered or certified mail to the affected secondary suppliers within each municipality, addressed to the chief executive officer or manager of such secondary supplier, no later than nine (9) months after the effective date of this Act. Simultaneously with the delivery of the notice of exercise of its option by the primary electric supplier, the primary electric supplier shall deposit in escrow with a bank whose principal office is in Alabama and which has capital and surplus not less than five million (\$5,000,000) dollars, or with any other escrow agent agreeable to the parties, the amount of one thousand (\$1,000) dollars for each premises receiving electricity from the distribution facilities proposed to be purchased by the primary electric supplier on the date of the notice based on the primary electric supplier's good faith estimate of the number of premises involved. The secondary supplier shall, within seven (7) days after receipt of such notice, provide the actual number of premises involved, if different from that estimated by the primary supplier, and the escrow deposit made by the primary supplier shall be adjusted to accommodate any difference within seven (7) days after such actual number of premises is supplied. The escrow agent shall be directed and authorized to invest the funds placed in escrow by the primary electric supplier in any investment directed by the primary electric supplier. The escrow agent is further authorized, upon election of the primary electric supplier making the deposit, to combine for investment any other deposit made by that depositor for the same purpose with respect to different facilities. The escrow agent shall render periodic accountings as to the escrow account to the primary electric supplier and the secondary electric supplier. If the purchase is consummated in accordance with this Act, the funds shall be used to satisfy the purchase price of the facilities and other consideration to be paid by the primary electric supplier to the secondary electric supplier due as of the date of closing as determined under this Section 4. Any portion of such fund in excess of the amount due to be paid to the secondary electric supplier on the date of closing shall be refunded to the primary electric supplier. If the amount due to be paid by the primary electric supplier to the secondary electric supplier under this Section 4 on the date of closing is in excess of the amount in the escrow account, the primary electric supplier shall pay the difference to the secondary electric supplier at closing. If the closing of the facilities is not con-

summed because of the failure of the primary electric supplier to pursue its option under this Act to purchase the distribution facilities, the escrow agent shall be instructed to deliver from the escrow fund to the secondary electric supplier, fourteen (14) days after the date on which the primary electric supplier's rights to purchase the facilities expire unconsummated, the interest earned on the amount deposited from investment of such funds plus ten percent (10%) of the amount originally deposited by the primary electric supplier. The balance of such escrow funds shall be returned to the primary electric supplier making the deposit.

(2) Unless otherwise agreed to by the secondary electric supplier and except as provided in Section 4(a)(3), the primary electric supplier must offer to purchase all of the distribution facilities of the secondary electric supplier utilized by the secondary electric supplier for retail electric service within the existing municipal limits of any particular municipality. The primary and secondary electric supplier shall cooperate in the development of an inventory of such facilities and in the valuation of the facilities to be sold and other consideration to be paid in accordance with the principles set forth in subsection (a)(4) below. The secondary electric supplier shall also furnish to the primary electric supplier an accurate record of the revenues billed to customers of the secondary electric supplier located within the existing municipal limits of the municipality for the twelve (12) months preceding the date of notice from the primary electric supplier of its exercise of the option to purchase facilities. The secondary electric supplier shall also provide the primary electric supplier with such information as is available to the secondary electric supplier concerning title to the distribution facilities. Within three (3) months after initial notice has been given to the secondary supplier, if agreement has not been reached as to the inventory of facilities to be acquired and the value thereof or other consideration to be paid, the primary electric supplier shall be entitled to provide, in writing, its proposal listing the distribution facilities to be acquired, stating its estimate of the value and listing its evaluation of other consideration to be paid in accordance with subsection (a)(4) hereof. Within thirty (30) days after receipt of any such proposal, the secondary electric supplier shall state its objections, if any, to the matters contained in such proposal. If the secondary electric supplier fails to submit objections within such thirty (30) day period, the proposal submitted by the primary electric supplier shall be conclusive as to the matters contained therein. If the secondary electric supplier does provide written objections, any dispute between the parties shall be resolved by mutual agreement or by the procedure set forth in Section 5 hereof.

(3) Each affected secondary supplier shall have the right to

continue to provide retail electric service in accordance with its established rules and regulations, without time limitation, to any premises within the existing municipal limits of any municipality, the electric load of which (a) was 800 kilowatts or greater for three consecutive months during the three (3) years prior to January 1, 1984; or (b) is served from a substation or step-down transformer from 44 kilovolts or higher which is devoted exclusively to service to the particular premises.

(4) The reproduction cost new, less depreciation, of the facilities to be acquired shall be determined as of thirty (30) days prior to the date established for the closing of the acquisition. The facilities transferred shall be conveyed by warranty deed, "as is, where is", without warranty, express or implied, as to the condition of the facilities. In addition to such reproduction costs, the primary electric supplier shall (i) reimburse the secondary electric supplier the costs to the secondary electric supplier for removal of its meters which are excluded from the definition of distribution facilities in Section 4(b)(i); (ii) reimburse the secondary electric supplier the cost of constructing any necessary facilities to reintegrate the system of the secondary electric supplier after detaching the portion to be sold to the primary electric supplier such that the reintegrated system and supply of power and energy thereto in those areas that will continue to be served by the secondary electric supplier will be as adequate and dependable as exists prior to the sale; such reimbursement to include the cost of removal and to be reduced by the salvage value of any facilities removed by the secondary electric supplier; (iii) reimburse the secondary electric supplier its original cost depreciated for facilities of the secondary electric supplier excluded from the definition of distribution facilities under Section 4(b)(ii) in which case the primary electric supplier shall take title to such facilities or, at the option of the secondary electric supplier, reimburse the secondary electric supplier the cost of removal, in which case the secondary electric supplier shall retain title; and (iv) pay to any wholesale supplier of the secondary electric supplier (or if the secondary electric supplier does not purchase its electric supply at wholesale then to the secondary electric supplier) the original cost depreciated of any facilities other than distribution facilities, as described in Section 4(b)(iii), rendered useless by such acquisition of the distribution system of the secondary electric supplier; provided, however, at the election of the owner of such facilities, the payment to be made shall be the cost to such owner of relocating such facilities. The primary electric supplier shall pay the secondary electric supplier the amount determined pursuant to this Act for reproduction cost new less depreciation of the distribution facilities together with the amount due under Section 4(a)(4)(i), (ii), (iii) and (iv) immediately upon transfer of title to the facilities. In addition, to compensate the

secondary electric supplier for the loss of future revenues from presently served or future developing premises, and not as compensation for the sale of its facilities, the primary electric supplier shall pay to the secondary electric supplier an amount equal to two and one-half times ( $2\frac{1}{2}$ ) the total revenue from electric sales derived by the secondary electric supplier from customers within the existing municipal limits during the twelve (12) months prior to the date notice is given by the primary electric supplier of its election to purchase the facilities. This amount shall be paid in ten (10) equal annual installments beginning on the date the sale of facilities is consummated.

(5) Each affected secondary electric supplier shall have the right to continue to provide service to premises located within the existing municipal limits until such time as the primary electric supplier exercises its option to purchase and until such purchase is consummated pursuant to the procedures established herein. In the event the electric facilities of the secondary electric supplier are subject to an option to purchase as provided herein, the secondary electric supplier shall have the right to continue to maintain such facilities and retail electric service until the primary electric supplier purchases the facilities of the secondary electric supplier; and in the event the primary electric supplier does not exercise the option to purchase the facilities of the secondary electric supplier as provided in this Section 4, the secondary electric supplier shall have the right to continue to maintain its facilities and service and make extensions to serve new premises within the existing municipal limits under the standards set forth in Section 3, notwithstanding the lack of a franchise from the municipality in which such premises are located. The primary electric supplier shall be prohibited from extending service to such new or existing premises.

#### (b) Distribution Facilities to be Purchased

The term "distribution facilities" as used in Section 4(a) shall include distribution lines and other facilities constructed or installed by the electric supplier in the area to which the purchase option applies, for the rendering of retail electric service except (i) meters, (ii) distribution transformers of voltages not compatible with those of the acquiring electric supplier, (iii) substations of such a voltage that are not compatible with operations of the acquiring electric supplier, (iv) facilities for provision of service by the secondary supplier to premises the electric load of which such secondary supplier may continue to serve under Section 4(a)(3), and (v) such facilities designated by the supplier as necessary to continue its service in an area not subject to the purchase option herein or to serve such supplier's own load.

## **Section 5. Resolution of Disputes as to Sales of Facilities or Purchases**

In the event that a dispute should arise between two or more electric suppliers in connection with the purchase of distribution facilities under Section 4 of this Act, the primary electric supplier involved may petition the Circuit Court for the judicial circuit in which the distribution facilities to be purchased are located to determine such matters as are in dispute between the parties. If the purchase of distribution facilities proposed to be purchased under the notice described in Section 4(a) (1) of this Act is not closed within six (6) months after the date of the notice and if the primary electric supplier has not filed a petition for resolution of disputes in the appropriate court within fourteen (14) days after six (6) months from the date of the notice, then the primary electric supplier's exercise of the option shall be void and of no further effect and the primary electric supplier shall have no right to purchase such facilities thereafter.

If a petition is filed with the appropriate Circuit Court, the sale of the facilities shall be closed within ninety (90) days from the date of the issuance of a final order of the Circuit Court (or from the date of the decision of an appellate court if such matter is appealed). If the closing is not completed within such ninety (90) days due to the failure of the primary electric supplier to close for any reason, the primary electric supplier's exercise of the option shall be void and it shall thereafter have no further right to purchase the distribution facilities covered by the notice.

## **Section 6. Applicability of Certain Provisions of Title 37**

With respect to any sale of facilities consummated pursuant to the provisions of this Act, the provisions of Section 37-1-50, Code of Alabama (1975), shall not be applicable to such sale or to the cessation by a utility of rendering service from such facilities involved in such sale. To the extent of any conflict between this Act and the provisions of Section 37-4-60 through Section 37-4-65, Code of Alabama (1975), the provisions of this Act shall govern and control.

## **Section 7. Exemptions**

The separate agreements listed below which have heretofore been entered into between, or negotiated between retail electric suppliers, have been reviewed by the Legislature, determined to be in the public interest and found not to be inconsistent with the purposes and policies set forth in this Act. In areas to which these agreements are applicable, the procedures for elimination and prevention of duplication of electric distribution facilities set forth in

these agreements shall govern. The following agreements are therefore mandated by the State of Alabama to be applicable:

1. Agreement between Cherokee Electric Cooperative (successor to Cherokee County Electric Membership Corporation) and Alabama Power Company dated June 5, 1940.
2. Agreement among the City of Bessemer, Alabama, Alabama Power Company and the Tennessee Valley Authority dated August 12, 1971.
3. Agreement between the City of Tarrant City, Alabama and Alabama Power Company dated June 8, 1983 regarding electric service areas in and around Tarrant City, Alabama.
4. Agreement between Alabama Power Company and Covington Electric Cooperative dated as of January 2, 1984 regarding electric service areas in Enterprise, Alabama.
5. Agreement between Alabama Power Company and Dixie Electric Cooperative dated as of January 2, 1984 regarding electric service areas in Montgomery and Union Springs, Alabama.
6. Agreement between Alabama Power Company and Coosa Valley Electric Cooperative dated as of January 2, 1984 regarding electric service areas in Lincoln, Alabama.
7. Agreement between Alabama Power Company and Pea River Electric Cooperative dated January 2, 1984 regarding electric service areas in Ozark, Alabama.
8. Agreement between Alabama Power Company and Tallapoosa River Electric Cooperative dated as of January 2, 1984 regarding electric service in areas of Randolph and Tallapoosa Counties, Alabama.
9. Agreement among Covington Electric Cooperative, the City of Elba, Alabama and the City of Elba Water and Electric Board dated as of January 2, 1984 regarding electric service in and around Elba, Alabama.
10. Agreement between Alabama Power Company and Southern Pine Electric Cooperative dated as of January 2, 1984 regarding electric service areas in Flomaton and Brewton, Alabama.
11. Agreement between South Alabama Electric Cooperative, Inc. and the City of Troy, Alabama dated as of October 14, 1983 regarding electric service in areas around Troy, Alabama.
12. Agreement between The Utilities Board of the City of Cullman and the Cullman Electric Cooperative dated November 5, 1954.

Subsequent to the effective date of this act, Suppliers shall be permitted to enter into mutual agreements, approved by the respective governing bodies of all Suppliers, affected by the agreement respecting the nonduplication of lines, that are consistent with the purposes and policies set forth in this act; provided, however, that no subsequent agreement shall be valid unless and until it has been reviewed and approved by the Legislature and the Legislature's approval has been evidenced by an amendment to this section of the act enacted prior to July 1, 1985.

**Section 8. Provision of Retail Electric Service in Violation of this Act**

(a) If an electric supplier commences construction of facilities in violation of the provisions of this Act, any aggrieved electric supplier which is designated herein as the entity to provide such service (the "Aggrieved Electric Supplier") may petition the Circuit Court for the judicial circuit in which the facilities are being constructed by the offending electric supplier for an injunction to prevent the offending electric supplier from completing the facilities for provision of the retail electric service in question.

(b) If an electric supplier believes that another electric supplier has already rendered or extended electric service at retail to a premise which was designated to be served by the Aggrieved Electric Supplier, the Aggrieved Electric Supplier shall give notice in writing to the offending electric supplier of the potential violation of this Act. The offending electric supplier shall have forty-five (45) days to determine whether it is in violation of this Act. If the offending electric supplier concludes that it is violating this Act, it may cease rendering and extending electric service at retail to the premises in question at the time and upon the schedule designated in writing by the Aggrieved Electric Supplier and the offending electric supplier shall have no liability to the Aggrieved Electric Supplier for violation of this Act. If the offending electric supplier does not cease rendering service and remove its distribution facilities within the forty-five (45) day period or with such longer period designated by the Aggrieved Electric Supplier, the Aggrieved Electric Supplier may file suit in the Circuit Court for the judicial circuit in which the rendition or extension occurs to enjoin the offending electric supplier from continuing such rendition or extension and for damages. If a violation of this Act is proved, the offending electric supplier shall (1) remove its facilities constructed for the rendition of retail electric service to the premises at the time and upon the schedule designated in writing by the Aggrieved Electric Supplier; and (2) pay to the Aggrieved Electric Supplier twenty-five percent (25%) of the gross revenues derived by the offending electric supplier from the sale of electric service in violation of this Act from and after the

date that is forty-five (45) days after the date on which the notice of violation was given. In addition, the offending electric supplier shall reimburse the Aggrieved Electric Supplier for all witness fees, court costs, reasonable attorneys fees and other expenses incurred in any litigation to enforce the Aggrieved Electric Supplier's rights under this Act. If the violation is not proved, the Aggrieved Electric Supplier shall reimburse the offending electric supplier for all witness fees, court costs, reasonable attorneys fees and other costs incurred in the litigation. All actions or proceedings for injunction or for damages shall be brought within three (3) years after the offending electric supplier first renders or extends electric service at retail in violation of this Act.

**Section 9. Validation Procedure; Authorization for Validation of Provisions of the Act**

In order to foster and encourage the underlying policies of this Act and to assure that sales and purchases of distribution facilities, and other transactions and actions authorized or allowed by this Act may be conducted in good faith with a knowledge of the consequence and the validity thereof and further, to assure that irrevocable commitments are not made in the implementation of the provisions of this Act without the assurance of their legality and validity, the following judicial review process is hereby authorized and it is declared to be the legislative intent that the provisions of this statute be judicially reviewed and validated pursuant to the procedure set forth herein and that the Circuit Court enter a judgment in accordance with the procedure set forth herein.

**(a) Filing of Complaint for Determination as to Legality of Provisions of Act**

At any time subsequent to the effective date of this Act, an affected secondary electric supplier whose distribution facilities are subject to the provisions of this Act and whose facilities may be purchased pursuant to this Act by a primary electric supplier may, in its discretion before the closing of such purchase, seek judicial determination of the legality and validity of such purchase of facilities pursuant to the provisions of this Act, and all other questions of the legality or validity of the provisions of this Act. Such judicial determination shall be had upon the filing of a complaint against the citizens of the State of Alabama and against the affected primary electric supplier. Such complaint shall be filed in the Circuit Court of Montgomery County, Alabama which shall have exclusive venue for the determination of all questions of the legality and validity of the provisions of this Act. The filing of any such complaint shall stay the dates established for the closing of all sales of facilities pursuant to the provisions of this Act until, with respect to each situation in



which intent to exercise the option to purchase has been announced, a date is established by the mutual agreement of the affected primary and secondary electric supplier, which date shall not be in excess of ninety (90) days after the final resolution of the action to determine the legality and validity of the proposed transaction as well as the legality and validity of this Act, including any appeal therefrom.

(b) Contents of Complaint: Order and Notice of Hearing to Show Cause

(1) The complaint by appropriate allegations, references and/or exhibits shall briefly state the following: the authority for the purchase and sale of distribution facilities and other transactions and restrictions under this Act; the nature of any franchise heretofore issued by a municipality which will be affected; a general description of restrictions imposed by this Act; the proposed date when the purchase and sale or other transaction is to be effective, and the impact which such restriction and sale shall have on the parties and the public.

(2) The judge of said court shall, upon the filing and presentation of said complaint, issue an order against the citizens of the state, and other defendants requiring them to show cause, at a time and place to be designated in said order, which time shall be not less than 35 days nor more than 56 days after the issuance of such order, and which place shall be within Montgomery County, why said purchase and sales and the other transactions and restrictions and all other proceedings under this Act should not be validated and confirmed.

(3) The Attorney General of the State of Alabama shall be the designated representative of the citizens of the State of Alabama and shall appear on their behalf for all purposes in any proceeding brought pursuant to this section.

(4) Prior to the hearing of said cause, the clerk of said court shall publish, in a newspaper of general circulation published in Montgomery County, once each week for at least three weeks before the hearing, the first publication which would be at least 21 days before such hearing, a notice addressed to the citizens of the State of Alabama requiring them, at the time and place specified in the order providing for the hearing of such case, to show cause, if any there be, why said purchase and sale or other transaction and restriction that may be referred to in the complaint should not be validated and confirmed. In addition, the clerk of said court shall also publish notice to the citizens of the state in newspapers of general circulation customarily published not less often than five days during each calendar week in the cities of Andalusia, Birmingham,

Dothan, Florence, Gadsden, Huntsville, Mobile, Selma and Tuscaloosa. By the publication of such notice, all citizens of the state shall become parties defendant to such proceedings, and the court shall have jurisdiction of them the same as if each of them were named individually as party defendants in said complaint and personally served with process.

(5) In addition to the publication and notice set forth in (4) *supra*, the clerk of the Circuit Court in Montgomery County shall also cause a summons and complaint to be served upon the Attorney General of the State of Alabama as representative of all citizens of the State of Alabama and upon all other parties named as defendants in the action.

(6) The plaintiff shall certify to the court, in writing, with an attached list, that it has mailed a copy, by certified mail, return receipt requested, of the complaint filed in the action to each other electric supplier in the state, as defined in this Act. Said notice to said electric suppliers shall inform them of the time and place of the hearing and shall contain a copy of the complaint filed herein. The notice required by this paragraph shall be mailed not less than 21 days prior to the date set for the hearing.

(7) Each electric supplier which receives notice pursuant to the provisions set forth in (6) above, or which receives notice in any manner whatsoever of this action, may petition the court, as a matter of right, to intervene in said action and to participate in the hearing provided for in paragraph (6) above.

(8) The failure of any electric supplier, municipality and/or governmental unit to exercise the right to intervene and participate in the hearing shall be deemed a waiver of any right such electric supplier, municipality or governmental unit may have to participate and to challenge, contest or otherwise question the validity of any purchase, sale and/or transaction made or proposed to be made pursuant to this Act or to challenge the validity of any of the provisions of this Act.

(c) Hearing and Entry of Judgment; Appeals from Judgment of Circuit Court

At the same time and place designated in said order, the judge of said Circuit Court shall proceed to hear and determine all questions of law and of fact in said civil action, and he shall make such order, or orders, as to the proceedings in said civil action as will best preserve and protect the interests of all parties and to enable him to enter a final judgment with the least possible delay. The final judgment shall find the facts specially and shall state separately the judge's conclusions with regard to any and all legal issues raised

with regard to any of the provisions of this Act and proposed purchase and sale of distribution facilities and other transactions and restrictions under this Act, together with other matters raised in the complaint, and shall state the judge's conclusions of law thereon. Any citizen of the State may appear in such proceedings, either personally or by attorney, and any party thereto, whether plaintiff, defendant or intervenor, dissatisfied with the judgment of the court may appeal therefrom to the Supreme Court of Alabama in accordance with the Alabama Rules of Appellate Procedure. Such appeal shall take priority in the Supreme Court over all other cases therein pending, except petitions for writs of habeas corpus.

(d) When Judgment of Circuit Court Final and Conclusive as to Validity of Purchase, Sale and Other Transactions or Restrictions Under This Act

If the Circuit Court shall enter a judgment validating and confirming the propriety of the provisions of this Act and purchases and sales, other transactions and restrictions under this Act and no appeal shall be taken within the time prescribed within the Alabama Rules of Appellate Procedure; or, if an appeal is taken and the judgment validating the provisions of this Act and such purchases and sales, other transactions and restrictions shall be affirmed by the Supreme Court; or, if the Circuit Court shall render a judgment refusing to validate and confirm the provisions of this Act and/or the purchase and sale, other transactions or restrictions pursuant to this Act, and on appeal such judgment shall be reversed by the Supreme Court (in which case the Supreme Court shall issue its mandate to the Circuit Court requiring it to enter a judgment validating the provisions of this Act and confirming the proposed purchase, sale, or other transactions or restrictions), the judgment of the Circuit Court validating and confirming the provisions of this Act and the purchase and sale, other transactions and restrictions, shall be forever conclusive as to the validity of the provisions of this Act, and shall be conclusive as to the validity of any purchase and sale, other transactions or restrictions or extension of electric service rendered pursuant to this Act as against all citizens of the state, electric suppliers and municipalities and other governmental units.

(e) Costs of Proceedings

The court costs in any proceeding brought under this Act shall be paid by the electric supplier commencing the action.

(f) Article Not Applicable Where the Validity of Purchase, Sale or Other Transaction Is in Controversy in Pending Actions or Proceedings

No action shall be commenced challenging the legality or valid-

ity of the provisions of this Act, or the legality or validity of a purchase and sale transaction or restriction under this Act where the legality or validity of the Act is in controversy in any prior pending civil action or proceeding in any court or has been determined in any such action. In the event any action is pending in any circuit in the State which raises or challenges the legality or validity of any provision of this Act at the time an action is filed under this Section 9, such pending action shall be transferred to the Circuit Court of Montgomery County and shall be consolidated with the action filed pursuant to this Section 9 and the consolidated proceeding shall be adjudicated in accordance with the procedures set forth in this Act.

**(g) Effect of Any Ruling of Invalidity**

The provisions of this Act are not severable. If any part of this Act is declared invalid under the constitution or laws of this state, such declaration shall render invalid all parts which remain. Notwithstanding such invalidity, action taken by any party in conformity with the provisions of this Act shall be considered lawful actions by such party; provided, however, any electric service rendered which would have been illegal or unlawful or violative of any contractual provision absent this Act shall be terminated and the facilities shall be removed following any determination of the invalidity of this Act.

**Section 10. Repealer**

All laws or parts of laws in conflict with the provisions of this Act are hereby repealed.

**Section 11. Effective Date**

This Act shall become effective immediately upon its passage and approval by the Governor or its otherwise becoming a law.

Approved April 26, 1984

Time: 4:15 P.M.

Act No. 84-207

H.J.R. 220—Reps. Nicholson, Brakefield

**HOUSE JOINT RESOLUTION**

**MOURNING THE DEATH OF MR. MARSHEL JOHNSON, JUNIOR, OF JASPER, ALABAMA.**

WHEREAS, the Legislature of Alabama grievously records the death of Mr. Marshel Johnson, Junior, of Jasper, Alabama, on October 26, 1983, at the early age of just 46 years; and

WHEREAS, Mr. Johnson's untimely death was the result of a

tragic accident which occurred in the line of duty as a longtime employee of the Alabama Power Company; and

WHEREAS, Mr. Johnson, at the time of his death, had been a member of IBEW, Local 833, for sixteen years; he also attended the First Church of the Nazarene in Jasper where he was faithful both in service and in worship; and

WHEREAS, the death of Marshel Johnson, Junior, has indeed left a deep void in the hearts of all those whose lives he touched with joy, laughter and love; his optimism and love of life were among the many attributes for which he was held dear by his family and throughout the community; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are sorely grieved by the death of Mr. Marshel Johnson, Junior, of Jasper, Alabama; we further extend heartfelt sympathy to his beloved wife, Mrs. Polly Kimbrell Johnson, and to their daughters, Kim and Kelli, whose loss we truly share and to whom a copy of this resolution shall be sent.

Approved April 30, 1984

Time: 2:45 P.M.

Act No. 84-208

H.J.R. 221—Reps. Nicholson, Brakefield

### HOUSE JOINT RESOLUTION

#### COMMENDING DILWORTH COMMUNITY ON GROUND-BREAKING OF NEW CENTER.

WHEREAS, the Legislature of the State of Alabama has noted with great pride the groundbreaking ceremony for the Dilworth Community Center on March 6, 1984; and

WHEREAS, the Dilworth Community Center represents a valuable asset to the Dilworth Community and will benefit many citizens; and

WHEREAS, Building Committee members John Watson, Lawson Rice, Melba Presser, Joe Eldon, Lecil Ballenger, Larry Newcomb, Eddie Williams, Kenneth Mitchell, Virgil Aycock, and Sam Williams as well as the countless other citizens who have held yard sales, raised money and have otherwise contributed their efforts and resources toward making this center a reality are due to be commended for their actions; and

WHEREAS, the Dilworth Community serves as shining exam-

ple to all citizens of the State of Alabama of true citizenship and community involvement and shows us all what a community can do for itself.

BE IT THEREFORE RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend the citizens of the Dilworth Community for their actions.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to the Dilworth Community so that they may know of our high regard.

Approved April 30, 1984

Time: 2:45 P.M.

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Act No. 84-209

H.J.R. 222—Rep. Browder

### HOUSE JOINT RESOLUTION

COMMENDING COACH VAN DEERMAN ON HIS OUTSTANDING CAREER AS COACH AND EDUCATOR AT JACKSONVILLE HIGH SCHOOL.

WHEREAS, the announced retirement of Basketball Coach Van Deerman, at the end of the current school year, brings to a close an outstanding career as coach and teacher of some 33 years; and

WHEREAS, Coach Deerman, who retires with a laudable career record of 545-283, also ends his tenure with the distinction of having worked 25 years at Jacksonville High School which is longer than any other basketball coach in Alabama has remained at one school; and

WHEREAS, it is further to be most commendably noted that during his association with JHS, Coach Deerman's Golden Eagles have been consistent winners, averaging 18 victories a season, and he has experienced only two losing season records during his entire career; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Coach Van Deerman of Jacksonville, Alabama, on his accomplished career as a high school coach and teacher.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to Coach Deerman that he may know of our sincere warm

praise and regard, and of our best wishes for every future success and happiness in retirement.

Approved April 30, 1984

Time: 2:45 P.M.

Act No. 84-210

H.J.R. 223—Rep. Browder

### HOUSE JOINT RESOLUTION

#### COMMENDING JACKSONVILLE STATE UNIVERSITY WOMEN'S AND MEN'S GYMNASTICS TEAM.

WHEREAS, the Legislature of Alabama, justifiably proud, notes another National Title for the State of Alabama and the first ever for Jacksonville State University; and

WHEREAS, in the recent National meet in Springfield, Massachusetts, JSU's Women Gymnasts captured the NCAA Division II National Championship following inspired performances and tremendous team effort on the part of the lady Gamecocks; and

WHEREAS, also ranking nationally was Jacksonville State's Men's Gymnastics Team which won third place honors, also during the Springfield Meet; and

WHEREAS, it is further to be noted that six members of the two JSU teams earned All-America status—Tracey Bussey, Marilyn Hanssler, Jennifer McFarland, Le Hair, Kenny Moore, Clyde Moreland and David Oak; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend and congratulate Coach Robert Dillard and his JSU Women's Gymnastics Team, National Champions, as well as Coach Tom Cockley and the Men's Gymnastics Team, for their personal extraordinary accomplishment and for the fame and honor they have brought home to their university and to the entire State of Alabama.

BE IT FURTHER RESOLVED, That copies of this resolution be provided for appropriate presentation and display at Jacksonville State University

Approved April 30, 1984

Time: 2:45 P.M.

Act No. 84-211

H.J.R. 224—Rep. Payne

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**HOUSE JOINT RESOLUTION****COMMENDING HEWITT-TRUSSVILLE HIGH SCHOOL WRESTLER TIM MINOR.**

WHEREAS, as a Hewitt-Trussville wrestler, Tim Minor's overall high school wrestling record is 121-5; and

WHEREAS, Tim Minor, during his high school career, has won fifteen major tournaments and is a three-time State Champion; and

WHEREAS, his record for 1983-84 was 35-0, and he ended the season by becoming the 3-time State Champion at 185 pounds; he also won the Minor, Benjamin Russell, Hewitt and Berry Invitational wrestling tournaments; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we herein express highest commendation of Hewitt-Trussville Wrestler Tim Minor for outstanding team contributions and for his extraordinary personal accomplishments as well.

**BE IT FURTHER RESOLVED,** That a copy of this resolution be presented to three-time State Champion Tim Minor with our sincere best wishes for every future success.

Approved April 30, 1984

Time: 2:45 P.M.

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Act No. 84-212

H.J.R. 225—Rep. Payne

**HOUSE JOINT RESOLUTION****COMMENDING THE HEWITT-TRUSSVILLE HIGH SCHOOL WRESTLING TEAM.**

WHEREAS, the Alabama Legislature notes with highest commendation the outstanding accomplishments of the 1983-84 Hewitt-Trussville High School Wrestling Team; and

WHEREAS, the Hewitt-Trussville team, which went 12-1 during the regular season, also finished first at the Berry Invitational as well as second at both the Benjamin Russell and Hewitt Invitationals; and

WHEREAS, the Hewitt-Trussville wrestlers further ended the



season by finishing second to Robert E. Lee High School in the State Tournament by a score of 129 to 128 and  $\frac{1}{2}$ ; and

WHEREAS, under Hewitt-Trussville Coach Ronnie Page, State Place finishers in their respective weight classes were Tim Minor and Ricky Everett—1st; Jimmy Pyle—2nd; Charles Cutcliffe—3rd; Jimmy McIntyre—4th; and Mike Pitts—5th; and

WHEREAS, other members of the 1983-84 team include Todd Strong, Chris Calma, Shane Black, Kenny Kirkes and Terry Minor; Allen Friday serves as team manager; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend and congratulate Coach Ronnie Page and the entire Hewitt-Trussville High School Wrestling Team for outstanding accomplishment.

BE IT FURTHER RESOLVED, That in token of our sincere praise and regard, copies of this resolution shall be provided for Hewitt-Trussville High School.

Approved April 30, 1984

Time: 2:45 P.M.

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Act No. 84-213

H.J.R. 226—Rep. Burke

### HOUSE JOINT RESOLUTION

DESIGNATING JUNE 4-9, 1984, AS “‘ALABAMA’ WEEK” IN THE STATE OF ALABAMA.

WHEREAS, on June 9, 1984, Alabama’s Third Annual “June Jam” will be held in Fort Payne, Alabama; and

WHEREAS, “June Jam,” which was organized and is sponsored by the musical group “Alabama,” has netted during its two previous concerts some \$525,000.00 donated to charities in the State of Alabama; and

WHEREAS, in addition to performances by “Alabama” the ’84 June Jam will also feature, among others, such famous personalities as Janie Fricke and Lee Greenwood; and

WHEREAS, the group “Alabama” has indeed focused the spotlight of the world on our State, in honor and prestige, and the members have greatly contributed to their fellow Alabamians, not only through the unselfish and dedicated sharing of their time and talent, but through personal and generous financial support as well; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in small token of sincere gratitude, admiration and regard, and in coincidence with "Alabama's" third annual "June Jam" in Fort Payne, we hereby designate the Week of June 4-9, 1984 as "'Alabama' Week" in the State of Alabama.

BE IT FURTHER RESOLVED, That copies of this resolution be presented to Messrs. Randy Owen, Jeff Cook, Teddy Gentry, and Mark Herndon of "Alabama" as a memento of this honorary designation of the Legislature.

Approved April 30, 1984

Time: 2:45 P.M.

Act No. 84-214

H.J.R. 227—Reps. McKee, Starr, Mikell,  
Hooper, Buskey (John),  
Holmes

### HOUSE JOINT RESOLUTION

COMMENDING RHUBARB JONES OF MONTGOMERY, ALABAMA, NATIONAL DISC JOCKEY OF THE YEAR.

WHEREAS, the Legislature of Alabama notes with highest commendation the selection of Rhubarb Jones of WLWI-Radio, Montgomery, Alabama, as National Disc Jockey of the Year, a prestigious designation of the Academy of Country Music; and

WHEREAS, in 1983, Mr. Jones also was accorded national honor when he received the Disc Jockey of the Year Award of the Country Music Association and was introduced on the nationally televised Country Music Awards Show; and

WHEREAS, Mr. Jones is indeed to be congratulated for extraordinary achievement in his field; long a popular Montgomery radio personality, his talent has exceeded local and regional bounds to become acknowledged countrywide; and

WHEREAS, once again, the citizens of Alabama may take personal pride in the introduction to the nation of Montgomery's own Rhubarb Jones on May 14, 1984, during televised awards presentations in Los Angeles, California; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily congratulate and commend Rhubarb Jones of Montgomery, Alabama, and WLWI-Radio, for outstanding achievement; we fur-

ther direct that he receive a copy of this resolution in small token of our sincere warm praise and esteem.

Approved April 30, 1984

Time: 2:45 P.M.

Act No. 84-215

H.J.R. 233—Rep. Marietta

### HOUSE JOINT RESOLUTION

COMMENDING MR. AND MRS. CHRISTOPHER McARDLE OF THEODORE, ALABAMA, ON THE OCCASION OF THEIR 50TH WEDDING ANNIVERSARY.

WHEREAS, the Alabama Legislature notes with pleasure the Golden Wedding Anniversary on April 4, 1984, of Mr. and Mrs. Christopher McArdle of Theodore, Alabama; and

WHEREAS, Mr. McArdle and his wife, Mrs. Genevieve McArdle, were united in marriage on April 4, 1934, at Saint Francis Xavier Catholic Church in Mobile, Alabama, and forsaking all others, have remained in said Holy state for the past 50 years; and

WHEREAS, they have lived their lives as one, devoted each to the other, and have been steadfastly faithful to their marriage vows, setting an enviable example for others; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with family and friends in congratulating this exemplary couple, Mr. and Mrs. Christopher McArdle of Theodore, Alabama, and direct that they receive a copy of this resolution expressing our warm best wishes for many more happy years together as man and wife.

Approved April 30, 1984

Time: 2:45 P.M.

Act No. 84-216

H.J.R. 234—Reps. Rogers, Davis, Horn,  
Perdue, Bachus, Boles,  
Trammell, Beers,  
McDowell, Seibels, Pratt,  
White (G), Gray, Spratt

### HOUSE JOINT RESOLUTION

COMMENDING UAB BLAZER STEVE MITCHELL.

WHEREAS, UAB Blazer Steve Mitchell is the University's 7th all-time scorer, with 645 points, in only his sophomore year; and

WHEREAS, Steve Mitchell, who is a product of Whitehaven High School, Memphis, Tennessee, was the second leading scorer this season, averaging 13.5 per game; and

WHEREAS, further, he set a new school record for the season—163 assists—and was named to the first team All-Sun Belt for 1983-84; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein express highest commendation of UAB Blazer, Steve Mitchell, whose extraordinary accomplishments on the court have contributed immeasurably to the singular success of UAB's basketball program.

BE IT FURTHER RESOLVED, That Mr. Mitchell be presented with a copy of this resolution that he may be aware of our sincere praise of his outstanding achievement, and of our warmest best wishes for every future success.

Approved April 30, 1984

Time: 2:45 P.M.

Act No. 84-217

H.J.R. 235—Reps. Rogers, Davis, Horn,  
Perdue, Bachus, Boles,  
Trammell, Beers, Gray,  
Spratt, Seibels, McDowell,  
White (G), Pratt

### HOUSE JOINT RESOLUTION

#### COMMENDING UAB BLAZER, ANTHONY GORDON.

WHEREAS, UAB Blazer, sophomore Anthony Gordon, is the fifth all-time rebounder at UAB, with 348 to his credit; and

WHEREAS, Anthony Gordon, who is a product of Booker T. Washington High School, Memphis, Tennessee, has played in all 67 Blazer games since he has been at UAB and, this season, was the team's second leading rebounder with a total of 194 for the year and an average of 5.8; and

WHEREAS, further, he also was named to the 1984 Sun Belt All-Tournament Team and set a new Sun Belt Conference Tournament record for rebounds—34 in three games; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein ex-

press highest commendation of UAB Blazer, Anthony Gordon, whose extraordinary accomplishments on the court have contributed immeasurably to the singular success of UAB's basketball program.

BE IT FURTHER RESOLVED, That Mr. Gordon be presented with a copy of this resolution that he may be aware of our sincere praise of his outstanding achievement, and of our warmest best wishes for his every future success.

Approved April 30, 1984

Time: 2:45 P.M.

Act No. 84-218

H.J.R. 236—Reps. Rogers, Horn, Perdue,  
Pratt, Bachus, White (G),  
Beers, Seibels, Payne,  
Davis, Trammell, Boles,  
Gray, Spratt, McNair

### HOUSE JOINT RESOLUTION

#### COMMENDING UAB BLAZER, MCKINLEY SINGLETON.

WHEREAS, senior McKinley Singleton, is the university's fifth all-time scorer with 615 points in only two years of varsity play; and

WHEREAS, McKinley Singleton, a product of Booker T. Washington High School, Memphis, Tennessee, was UAB's leading scorer this season with a 14.6 average and, on March 15, 1984, tied the school's record for points in a single game—35 against Brigham Young; and

WHEREAS, further, he was named Most Valuable Player in the 1984 Sun Belt Conference Tournament and was a member of the '84 Sun Belt All-Tournament Team; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein express highest commendation of UAB Blazer, McKinley Singleton, whose extraordinary accomplishments on the court have contributed immeasurably to the singular success of UAB's basketball program.

BE IT FURTHER RESOLVED, That Mr. Singleton be presented with a copy of this resolution that he may be aware of our sincere praise of his outstanding achievement, and of our warmest best wishes for his every future success.

Approved April 30, 1984

Time: 2:15 P.M.

Act No. 84-219

H.J.R. 237—Rep. Fuller

## HOUSE JOINT RESOLUTION

DESIGNATING MAY 5, 1984, AS "RAZZY BAILEY DAY" IN ALABAMA.

WHEREAS, Razy Bailey, a native of Chambers County, Alabama, and a graduate of LaFayette High School is a nationally and internationally acclaimed recording artist; and

WHEREAS, Razy Bailey's outstanding musical career began with performances and appearances with the Future Farmers of America; and

WHEREAS, as a native son of our state, Razy Bailey is an inspiration to young people and aspiring young musicians throughout Alabama; and

WHEREAS, in coincidence with a visit to his home state and in gratitude for the fame and honor he has brought to Chambers County and Alabama, it is entirely fitting that Razy Bailey be appropriately honored by his fellow citizens; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby name and designate May 5, 1984, as "Razy Bailey Day" in Alabama and direct that Mr. Bailey receive a copy of this resolution as a memento of this honorary designation of the Legislature.

Approved April 30, 1984

Time: 2:45 P.M.

Act No. 84-220

H.J.R. 244—Reps. Butler, Albright,  
Hettinger, Grayson,  
Hall, Brooks

## HOUSE JOINT RESOLUTION

COMMENDING MR. AND MRS. GEORGE HARRIS AND THE HARRIS HOME ON THE 30TH ANNIVERSARY OF THE INSTITUTION'S ESTABLISHMENT.

WHEREAS, Mrs. Chessie Harris and her husband, Mr. George Harris, are co-founders of the Harris Home for Children, established in 1954 in Huntsville, Alabama; and

WHEREAS, the opening of said home for foster care was the realization of a childhood dream of Mrs. Harris, former executive

director of the facility from its inception until her retirement in 1980; and

WHEREAS, though blessed with innate ability and imbued with compassion and understanding for homeless children, Mrs. Harris pursued graduate studies in such areas as child welfare, educational psychology, adolescent psychology, sociology, home economics and family planning at various colleges and universities; and

WHEREAS, Mrs. Harris further has been associated with a number of professional organizations in child care and related fields, serving many in leadership capacity, and has been variously honored for her work and service, including a 1978 gubernatorial proclamation declaring a statewide day in her name; and

WHEREAS, since Harris Home first opened its doors to the homeless, more than 800 children have been given guidance and professional care in a warm home-like atmosphere by their loving "parents," Mr. and Mrs. George Harris, who have given generously of themselves, despite sacrifice of a private life and personal financial gain; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Mr. and Mrs. George Harris of Huntsville, Alabama, and the Harris Home they founded some three decades ago.

BE IT FURTHER RESOLVED, That Mr. and Mrs. Harris receive a copy of this resolution, expressing our deep admiration and regard for their immeasurable compassion, love and self-sacrifice on behalf of their fellowman.

Approved April 30, 1984

Time: 2:45 P.M.

Act No. 84-221

H.J.R. 245—Reps. Nicholson, Brakefield

### HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF JUDGE ROY MAYHALL OF JASPER, ALABAMA.

WHEREAS, it is with deep sadness and regret that the Alabama Legislature records the death of Judge Roy Mayhall of Jasper, Alabama, on March 11, 1984, at the age of 82 years; and

WHEREAS, Judge Mayhall, a native of Haleyville, was a graduate of the University of Alabama's School of Law; he was engaged in the private practice of law in Haleyville for some 20 years, during

which time he became the first Democrat from Winston County ever to be elected to the Alabama House of Representatives; and

WHEREAS, it was upon appointment in 1943 to the circuit judgeship in Walker County that Judge Mayhall moved to Jasper, and his lengthy tenure, until retirement in 1965, evidenced the trust and regard in which he was held by the citizens of Walker County; and

WHEREAS, Judge Mayhall, following retirement, served as supernumerary judge for eight years in Mobile, five years in Huntsville and for a year in Gadsden; and

WHEREAS, he was a member of the Alabama Executive Democratic Committee for more than three decades, holding office as vice chairman and chairman from 1966 until 1978, and was a delegate to the National Democratic Convention in 1960; and

WHEREAS, Judge Mayhall also served in responsible community concern as a member, deacon and chairman of the diaconate of First Baptist Church of Jasper, and as a member of the Jasper Lions Club for 55 years, holding a number of offices in that organization; and

WHEREAS, though an astute jurist and dedicated civic leader, Judge Mayhall also will long be remembered as a beloved member of his community who gave in service and concern for others far more than was possible to repay; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Judge Roy Mayhall of Jasper, Alabama, sharing the sorrow of his family and, indeed, of all Alabamians.

BE IT FURTHER RESOLVED, That copies of this resolution, tendered in sympathy and concern, be forwarded to his wife, Mrs. Louise Mayhall; to his daughters, Mrs. Reba Brown and Mrs. Doris Roberts; and to other family members as well.

Approved April 30, 1984

Time: 4:30 P.M.



Bugg, Burke, Buskey  
 (James), Buskey (John),  
 Butler, Carothers, Carter,  
 Clark (D), Clark (J), Clark  
 (W), Coburn, Coleman,  
 Cosby, Davis, Dutton,  
 Escott, Faulk, Flowers,  
 Ford, Fuller, Gaston,  
 Goodwin, Gray, Grayson,  
 Grimsley, Grouby, Hall,  
 Hammett, Harper, Harvey,  
 Hettinger, Holley, Holmes,  
 Hooper, Horn, Johnson  
 (R.G.), Johnson (Roy),  
 Junkins, Kennedy,  
 Kvalheim, Laird,  
 Lauderdale, Lindsey,  
 McDowell, McKee,  
 McMillan, McNair,  
 Marietta, Martin, Mathis,  
 Melton, Mikell, Mitchell,  
 Moore, Newman, Nicholson,  
 Onderdonk, Parker, Payne,  
 Penry, Perdue, Poole, Pratt,  
 Preuitt, Rains, Reed, Rice,  
 Richardson, Rogers, Sasser,  
 Seibels, Smith, Spratt,  
 Starkey, Starr, Tanner,  
 Thomas, Trammell, Turner,  
 Turnham, Venable, Warren,  
 White (F), White (G),  
 White (L), Zoghby

## HOUSE JOINT RESOLUTION

WISHING MR. JAMES J. CAMPBELL A SPEEDY RECOVERY.

WHEREAS, the Alabama House of Representatives expresses deep regret in the illness and hospitalization of Mr. James J. Campbell; and

WHEREAS, Mr. Campbell is the father of our good friend and colleague, Representative Jim Campbell, and his father's illness is, of course, of great concern to us all; and

WHEREAS, we are hopeful, however, that the prognosis will

prove excellent for Mr. Campbell's complete and speedy recovery, and that he soon will be able to return home; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we deeply regret the illness of Mr. James J. Campbell and wish for him the speediest possible return to good health.

**BE IT FURTHER RESOLVED,** That a copy of this resolution be forwarded to our friend, Jim Campbell, that he may let his father and other family members know that our thoughts and prayers are with them during Mr. Campbell's illness.

Approved April 30, 1984

Time: 2:45 P.M.

Act No. 84-223

H.J.R. 250—Rep. White (L)

### HOUSE JOINT RESOLUTION

**COMMENDING AND CONGRATULATING THE DADEVILLE, ALABAMA, KIWANIS CLUB ON THE OCCASION OF ITS 50TH ANNIVERSARY.**

**WHEREAS,** the Alabama Legislature congratulates, with highest commendation, the Dadeville, Alabama, Kiwanis Club on its forthcoming 50th Anniversary on May 29, 1984; and

**WHEREAS,** the Dadeville Kiwanis Club was chartered on May 29, 1934, and is a local chapter of Kiwanis International, a federation of business and professional men's civic service clubs since 1915; and

**WHEREAS,** the Dadeville Kiwanians are indeed to be commended for fifty years of participation and support of the numerous worthy projects and programs of Kiwanis International, including sponsorship of Key Club honorary for outstanding high school boys, their involvement in public and business affairs and for their support of churches in their spiritual aims, among many other endeavors; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we hereby both congratulate and commend the Dadeville, Alabama, Kiwanis Club, and all its members, on the Club's 50th Anniversary.

**BE IT FURTHER RESOLVED,** That a copy of this resolution of commendation be forwarded to Mr. Larry Gordon, president, that the Dadeville Kiwanians may know of our congratulations and warm

best wishes for an additional 50 years of civic and community service.

Approved April 30, 1984

Time: 4:30 P.M.

Act No. 84-224

H.J.R. 251—Reps. Rice, Turnham

### HOUSE JOINT RESOLUTION

#### MOURNING THE DEATH OF MR. ISAAC JUDSON SCOTT OF OPELIKA, ALABAMA.

WHEREAS, the Alabama Legislature regretfully records the death of Mr. Isaac Judson Scott of Opelika, Alabama, on April 3, 1984, at the age of 84 years; and

WHEREAS, Mr. Scott, though a native of Rockdale County, Georgia, had resided in Opelika since 1924 and his marriage to the former Miss Frances Morgan of that city; and

WHEREAS, Mr. Scott attended the Georgia public schools, the University of Georgia and Emory University; he was in former association with an Atlanta construction firm, in later partnership with other family members, and was the owner of a construction firm of national prominence which he founded in 1957; and

WHEREAS, in addition to the business community, Mr. Scott also greatly contributed in numerous other areas of civic and state-wide concern; he was an original member and major longtime supporter of the Opelika Industrial Board, and served on the State Planning and Industrial Development Board and with the Governor's 100 Group; and

WHEREAS, Mr. Scott further served two terms on the State Democratic Executive Committee and was a delegate to the 1960 Democratic Convention; he was named Opelika's Distinguished Citizen for 1971, was a founder and benefactor of an Opelika private school named in his honor and was a faithful contributing member of the First Baptist Church which he had served as Deacon and in a number of committee assignments; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Mr. Isaac Judson Scott of Opelika, Alabama, and extend our very deepest sympathy to his family whose sorrow we truly share.

BE IT FURTHER RESOLVED, That copies of this resolution

be provided for his beloved wife and his children, Frances Marion Scott and Isaac Judson Scott, Jr., and other family members that they may know of our care and concern for them in their great loss.

Approved April 30, 1984

Time: 4:30 P.M.

Act No. 84-225

H.J.R. 258—Reps. Gaston, Kvalheim

### HOUSE JOINT RESOLUTION

COMMENDING REGINA STANFORD FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, Regina Stanford, a student at Shaw High School in Mobile, was named "All American Cheerleader" in 1982 and 1983; and

WHEREAS, Miss Stanford has received many other honors while a student at Shaw High School, some of which include 1983 South Alabama's Most Outstanding Cheerleader, Aloha Bowl Cheerleader, Senior Bowl Cheerleader, Class Favorite for six years, Homecoming Maid for four years, Miss Rebel Rebellion for 1983-1984 and Shaw High School's DAR Good Citizen; and

WHEREAS, her most recent achievement was being chosen as a National Cheerleader's Association Staff Instructor for the Summer of 1984; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend Miss Regina Stanford for her outstanding achievements and wish her success in her future endeavors.

BE IT FURTHER RESOLVED, That Miss Stanford receive a copy of this resolution in declaration of our praise and regard.

Approved April 30, 1984

Time: 4:30 P.M.

Act No. 84-226

H.J.R. 259—Rep. Gaston

### HOUSE JOINT RESOLUTION

COMMENDING MISS PAIGE FERNIE REYNOLDS OF MOBILE, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with highest commendation that the Alabama

Legislature notes the numerous accomplishments of Miss Paige Fernee Reynolds of Mobile, Alabama; and

WHEREAS, Miss Reynolds, the daughter of Mr. and Mrs. Bruce H. Reynolds and a junior at the Julius T. Wright School in Mobile, recently won both district and state first place honors in the Colonial Grand Dames Essay Contest; and

WHEREAS, in further outstanding achievement, Miss Reynolds serves as co-editor of *Dayspring* literary publication and is Student Government vice president of education; and

WHEREAS, Miss Paige Reynolds participates further in a number of other extra curricular and community activities; she has served as publicity chairman for the Junior Class Fashion Show, as Fashion Show commentator, as a member of the varsity tennis team, the newspaper and yearbook staffs, on the Holmes Junior Board and she is an Episcopal Young Churchman officer; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in highest commendation and praise, we hereby recognize Miss Paige Fernee Reynolds of Mobile, Alabama, for extraordinary achievement and direct that she receive a copy of this resolution in expression of regard and best wishes for every future success in life.

Approved April 30, 1984

Time: 4:30 P.M.

Act No. 84-227

S. 134—Senators Foshee, and Teague  
AN ACT

Relating to contractors; to require out-of-state contractors to register and file either a deposit or surety bond as well as a list of personal property involved in a construction project in Alabama upon which use and ad valorem taxes are due and payable; to provide for the payment of such taxes; and to provide for the return of the deposit or surety bond posted.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Every nonresident contractor, as defined in Section 39-2-12 of the Code of Alabama 1975, shall register with the Department of Revenue prior to engaging in the performance of a contract in this state. At the time of registration the contractor shall deposit with the Department of Revenue five per centum (5%) of the amount such contractor is to receive for the performance of the contract which shall be held within a "Contractors Use Tax Fund" pending the completion of the contract, the determination of the

taxes due this state and other governmental bodies, and the payment of same. In lieu of such deposit the contractor may provide a corporate surety bond to be approved by the Commissioner of Revenue as to form, sufficiency, value, amount, stability, and other features necessary to provide a guarantee of payment of the taxes due this state and other governmental bodies.

**Section 2.** In addition, within thirty (30) days after registration, the contractor shall file a statement with the Department of Revenue itemizing the machinery, materials, supplies, and equipment that he has or will have on hand at the time he begins the fulfillment of the contract where such tangible personal property has been brought, shipped, or transported from outside the State of Alabama upon which neither the use taxes or ad valorem taxes have been paid and shall pay the tax due thereon at the time of filing and thereafter shall report and pay the tax as required by the Commissioner of Revenue.

**Section 3.** Upon payment of the said taxes due, as required hereby, the deposit or the surety bond required herein shall be returned forthwith to the out-of-state contractor posting same.

**Section 4.** The Commissioner of Revenue shall have authority to promulgate rules and regulations to carry out the provisions of this Act.

**Section 5.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 7.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 4, 1984

Time: 4:30 P.M.

Act No. 84-228

S. 135—Senators Foshee and Teague

AN ACT

Relating to contracts and contractors; to give preference to resident contractors who bid on public work projects except where federal funds are involved.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In the letting of public contracts in which any state, county or municipal funds are utilized, except those contracts funded in whole or in part with funds received from a federal agency, preference shall be given to resident contractors, and a non-resident bidder domiciled in a state having laws granting preference to local contractors shall be awarded Alabama public contracts only on the same basis as the nonresident bidder's state awards contracts to Alabama contractors bidding under similar circumstances; and resident contractors in Alabama, as defined in Section 39-2-12, Code of Alabama 1975, be they corporate, individuals or partnerships, are to be granted preference over nonresidents in awarding of contracts in the same manner and to the same extent as provided by the laws of the state of domicile of the nonresident.

**Section 2.** Nonresident bidders must accompany any written bid documents with a written opinion of an attorney at law licensed to practice law in such nonresident bidders' state of domicile, as to the preferences, if any or none, granted by the law of that state to its own business entities whose principal places of business are in that state in the letting of any or all public contracts.

**Section 3.** A summary of this law shall be made a part of the advertised specifications of all projects affected by this law.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 30, 1984

Time: 4:30 P.M.

Act No. 84-229

S.J.R. 11—Senators Drinkard, Dial, Teague  
and Dixon

SENATE JOINT RESOLUTION

CREATING AN INTERIM LEGISLATIVE COMMITTEE TO  
ASSESS THE NON-FEDERAL ASPECTS AND RESPONSIBILI-

## TIES INVOLVED IN COMPLETING THE COOSA RIVER NAVIGATION PROJECT.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created a joint interim committee to be composed of four members of the House to be appointed by the Speaker and four members of the Senate to be appointed by the Lieutenant Governor. The committee shall continue to exist until November 1, 1986, at which time it shall terminate. The committee, which shall be named the "Coosa River Study Committee," shall study those aspects of the proposed Coosa River Navigation Project which involve the State of Alabama. Priority will be given to the benefits to be derived, funding the non-Federal portion of the costs and meeting the responsibilities of the Coosa Valley Development Authority as the designated local sponsor. The committee shall elect at the first meeting a chairman and vice chairman from among their members.

Upon the request of the chairman, the Secretary of the Senate and the Clerk of the House shall provide such clerical assistance as may be necessary for the committee's work. Each member of the committee shall be entitled to his regular legislative compensation, his per diem and travel expenses for each day he attends a meeting of the committee which shall be paid out of any funds appropriated to the use of the Legislature, upon warrants drawn on the state comptroller upon requisitions signed by the committee's chairman; provided, however, that members shall not receive additional legislative compensation or per diem when the Legislature is in session or if a member is being paid any other payments on the same dates for attendance of other state business. The total of such expenses shall not exceed \$7,000.00 per year, which shall be payable from funds made available for legislative use.

The committee shall report its findings and suggestions to the full legislature at each regular session of the Legislature in 1984, 1985 and 1986.

Approved April 30, 1984

Time: 4:30 P.M.

Act No. 84-230

S.J.R. 146—Senator deGraffenried

### SENATE JOINT RESOLUTION

COMMENDING THE MONTGOMERY CHAPTER OF PROFESSIONAL SECRETARIES INTERNATIONAL.



WHEREAS, the Montgomery chapter of Professional Secretaries International is to be commended for their outstanding achievements in elevating the standards of the secretarial profession and in recognizing the vocation of secretaries as a professional career; and

WHEREAS, the Montgomery chapter of Professional Secretaries International has been instrumental in promoting its working relationship with management through continuing education and authorized programs which include the Certified Professional Secretary examination, the Future Secretaries Association, the Home Trust Fund, the Research and Educational Foundation and Professional Secretaries Week; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend the Montgomery Chapter of Professional Secretaries International for their outstanding achievements in the secretarial profession.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to the Montgomery chapter of Professional Secretaries International.

Approved April 30, 1984

Time: 2:20 P.M.

Act No. 84-231

S.J.R. 148—Senator deGraffenried

### SENATE JOINT RESOLUTION

AMENDING ACT NO. 83-339, S.J.R. 47, 1983 REGULAR SESSION, WHICH CREATED A JOINT INTERIM LEGISLATIVE COMMITTEE ON THE ARTS AND HUMANITIES.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Act No. 83-339, S.J.R. 47, 1983 Regular Session, is hereby amended to read as follows, viz:

“WHEREAS, the Legislature of Alabama notes that there is a growing recognition among Alabama citizens that the performing, visual and literary arts are important to the quality of life of every person, the cultural environment of our communities, the vitality of our cities and to the developing economy of the state; and

“WHEREAS, citizen demand for arts experiences has generated public and private support for the arts, creating a beneficial cultural and economic impact on the state; and

"WHEREAS, a 1981 statewide study has revealed great citizen interest in incorporating arts into the regular curriculum of our public schools; and

"WHEREAS, a 1982 study has revealed the arts to be of great economic impact providing millions of dollars in revenue and providing many jobs; and

"WHEREAS, the 1982 Regular Session of the Alabama Legislature passed legislation permitting Alabama taxpayers to designate a portion of their refund to the Arts Development Fund; now therefore,

"BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created an Interim Committee on the Arts and Humanities, to meet and to report to the Legislature by the fifth legislative day of the 1986 Regular Session on the state of the Arts and Humanities as investigated by the Committee. Upon request of the Chairman, the Secretary of the Senate and the Clerk of the House shall provide such clerical assistance as the Committee's work may require. The Committee shall be composed of the two members from both houses who currently serve on the Arts Task Force of the National Council of State Legislatures and three other committee members from each house to be appointed by the Lieutenant Governor and the Speaker of the House of Representatives. The President and the President Pro Tempore of the Senate and the Speaker and the Speaker Pro Tempore of the House shall be ex officio members of the Committee.

"The purpose of this interim committee shall be to study the matter set forth below and such other matters as it may deem appropriate to improve the environment of the state through the encouragement and expansion of the arts. Those specific matters shall be:

- "1. The appropriate level of state support for the arts;
- "2. The level of demand for the arts;
- "3. Methods to promote demand for the arts to increase employment for artists and income for arts organizations;
- "4. The place of arts in education;
- "5. The role of government in supporting the arts versus the role of the private sector;
- "6. The involvement of minorities in the arts;
- "7. The need for interim, standing or joint committees on the arts;
- "8. Alternate approaches to supporting the arts;

"9. The use of public buildings in non-peak hours for arts activities;

"10. The need for art in public places;

"11. The availability and accessibility of the arts to all citizens.

"BE IT FURTHER RESOLVED, That the Interim Committee will study in general the way that public dollars are being invested in the arts so that these monies are multiplied as significantly as possible; and that the final report of the Committee, along with findings and recommendations, shall be submitted to each member of the Legislature no later than the fifth Legislative day of the 1986 Regular Session. Each member of the committee shall be entitled to his regular legislative compensation, his per diem and travel expenses for each day he attends a meeting of the committee, which shall be paid out of any funds appropriated to the use of the legislature, upon warrants drawn on the state comptroller upon requisitions signed by the committee's chairman. Total expenditures of the committee shall not exceed \$10,000.00."

Approved April 30, 1984

Time: 4:30 P.M.

Act No. 84-232

S.J.R. 154—Senator Figures

### SENATE JOINT RESOLUTION

COMMENDING C. F. VIGOR HIGH SCHOOL, PRICHARD, ALABAMA.

WHEREAS, the Alabama Legislature notes with extreme pride and pleasure the inclusion of C. F. Vigor High School, Prichard, Alabama, among 263 schools, including 149 senior high schools, to compete as finalists in a process to identify the top public schools in America; and

WHEREAS, it is to be noted that the schools named by United States Education Secretary Bell, as finalists, were among 555, nationwide, recommended by state school superintendents, and these select schools will be further scrutinized by visiting selection teams composed of non-government officials before final designation of excellence is made in July 1984; and

WHEREAS, the Mobile County Board of Education, as well as the faculty and staff of Vigor High School are indeed to be com-

mended for their leadership and dedicated efforts on behalf of quality public school education in Alabama; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we herein most highly commend C. F. Vigor High School and the Mobile County Board of Education for outstanding accomplishment, and for the signal honor they have brought to their community and to the entire State of Alabama.

**BE IT FURTHER RESOLVED,** That copies of this resolution be provided for Vigor High School and for the Mobile County Board of Education.

Approved April 30, 1984

Time: 2:20 P.M.

Act No. 84-233

S.J.R. 170—Senator Barron

### SENATE JOINT RESOLUTION

#### CREATING THE HUNTSVILLE GOVERNMENTAL STUDY TASK FORCE.

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That there is hereby created the Huntsville Governmental Study Task Force. Each member of the Madison County Legislative Delegation shall appoint one member to the task force, and the mayor and each city councilman of the City of Huntsville shall appoint one member. All appointees shall reside within the corporate limits of Huntsville.

The Chairman shall be elected from among its members and shall preside over all meetings. The Task Force shall make its own rules for the conduct of business. The initial meeting shall be held at the call of the Chairman of the Madison County Legislative Delegation. Members of the Task Force shall serve without compensation. Administrative and clerical assistance shall be available from the Madison County Legislative Office.

The purpose of the Task Force shall be to study various forms of governmental organization for the City of Huntsville.

The Task Force shall make its recommendations in writing to the Madison County Legislative Delegation within twelve months of the effective date of this act, at which time it shall be discharged of any further responsibilities or duties.

Approved April 30, 1984

Time: 2:20 P.M.

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Act No. 84-234

S.J.R. 172—Senator Goodwin

SENATE JOINT RESOLUTION

COMMENDING MRS. FAY BUNCH, STATE PRESIDENT  
OF THE VETERANS OF FOREIGN WARS LADIES  
AUXILIARY.

WHEREAS, the Legislature of Alabama in high commendation joins in recognition of April 28, 1984, as Fay Bunch Day in honor of the organization's current State President; and

WHEREAS, Mrs. Bunch, in responsible statewide leadership, has coordinated the organization's participation in its national cancer and research project as well as its support of the Lurleen B. Wallace Research Center in Birmingham; and

WHEREAS, during Mrs. Bunch's stewardship, the Auxiliary has further joined the VFW Post in its involvement and support in such commendable areas as the Veterans Administration hospitals and nursing homes; veterans' rehabilitation; in community services such as the March of Dimes, Boy Scouts, community beautification and the Kidney Foundation, among others; and

WHEREAS, the Auxiliary and Post, together, extend their activities in the promotion of Americanism, donating flags and literature; through sponsorship of Veterans Day programs; with their annual Sale of Buddy Poppies to aid disabled veterans; their Voice of Democracy Program; Patriotic Art and Hire the Handicapped Poster contests; recognition of law enforcement officers and firefighters; and through distribution of safety and drug abuse literature in our schools; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein express highest commendation of Mrs. Fay Bunch, State President of the Veterans of Foreign Wars Ladies Auxiliary; we further voice praise of her distinguished tenure in statewide leadership of the Auxiliary, and direct that she receive a copy of this resolution in small token of our sincere regard.

Approved April 30, 1984

Time: 2:20 P.M.

Act No. 84-235

H. 122—Rep. Grayson

## AN ACT

To amend Section 16-35-1, Code of Alabama, 1975, so as to provide for the qualifications and number of the members of the State Courses of Study Committee.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 16-35-1, Code of Alabama, 1975, is hereby amended to read as follows:

“§ 16-35-1. The State Board of Education shall constitute a Courses of Study Committee for the purposes and functions as hereinafter provided. The State Courses of Study Committee shall consist of twenty-one members to be selected as follows:

(a) one elementary teacher (grades k through 6) and one secondary teacher (grades 7 through 12) from each of the seven congressional districts, and shall be teaching in the course of study areas to be revised during their terms of office;

(b) four members from the state at-large actively engaged in a supervisory or administrative capacity in the field of education and who are knowledgeable or who have had previous teaching experience in the course of study areas to be revised during their term of office;

(c) three members shall be employees of state institutions of higher learning, and shall be specialists in the course of study areas to be revised during their terms of office.

Additional standards for membership on the Courses of Study Committee may be established by the State Board of Education other than those prescribed hereinabove. Said standards shall be sent to every local board of education and every county and city superintendent.

Local boards of education, through their superintendents, shall nominate persons to serve on these committees. Local boards shall furnish credentials of each person recommended, including a summary of each person's qualifications for membership on the committee. All nominations along with said credentials shall be forwarded to the State Superintendent of Education. The State Board of Education, upon the recommendations of the State Superintendent of Education, shall appoint all members of the State Courses of Study Committee from the nominees made by the local boards of education.

The term of office of the members of said committee shall be for

a period of one year, beginning on the first day of May, 1984. The members shall hold office until their successors are appointed."

**Section 2.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 3.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 30, 1984

Time: 4:30 P.M.

Act No. 84-236

H.J.R. 284—Rep. Biddle

### HOUSE JOINT RESOLUTION

DESIGNATING APRIL 30—MAY 6, 1984, AS BOBBY ALLISON WEEK IN ALABAMA.

WHEREAS, Robert Arthur Allison of Hueytown, Alabama, is a veteran stock car racer who has carved for himself a niche in sports annals and, in so doing, has earned more than \$4 million in prize money; and

WHEREAS, Bobby Allison, one of the sport's most popular drivers with fans and drivers alike, has been five times voted Most Popular Driver of the NASCAR Circuit by his fellow competitors, is the recipient of the prestigious Olsonite Driver of the Year Award by a panel of top national sports writers, and is a member of the Alabama Sports Hall of Fame; and

WHEREAS, among Mr. Allison's victories, too numerous to list, are 79 Winston Cup wins, 47 superspeedway wins, 22 superspeedway poles and, in 1983, the Winston Cup Grand National Championship; already to his credit in '84, is a new Rockingham, North Carolina, track record of 122.93 miles per hour, and a big "win" in the Warner W. Hodgdon Carolina 500, both early events of this year's NASCAR 30-Race Winston Cup circuit; and

WHEREAS, Bobby Allison is indeed the superstar of NASCAR and it is entirely appropriate that he be honored by the State to which he has brought great fame and distinction; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby des-

ignite April 30—May 6, 1984, as Bobby Allison Week in the State of Alabama.

BE IT FURTHER RESOLVED, That Mr. Allison receive a copy of this resolution as a memento of this honorary designation of the Alabama Legislature.

Approved April 30, 1984

Time: 4:30 P.M.

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Act No. 84-237

S.J.R. 149—Senators Little, Dixon,  
Corbert, deGraffenried  
and Bedsole

### SENATE JOINT RESOLUTION

COMMENDING GOVERNOR JOHN M. PATTERSON  
UPON HIS APPOINTMENT TO THE ALABAMA COURT OF  
CRIMINAL APPEALS.

WHEREAS, the Legislature of Alabama notes with great pleasure the appointment by Governor George Wallace of former Governor John M. Patterson to the Alabama Court of Criminal Appeals; and

WHEREAS, a native of Tallapoosa County, John Patterson served in the United States Army during World War II and again from 1951 to 1953; his service included duty in South Africa, Sicily, Italy, France and Germany; and

WHEREAS, he attended the University of Alabama, majoring in Political Science; in 1949 he was awarded the LL.B. degree from the University's School of Law and that same year was admitted to the Bar; and

WHEREAS, Governor Patterson, whose term as Chief Executive from 1959 to 1963 was preceded by a term as State Attorney General, is a distinguished Alabama jurist and has been engaged in the private practice of law in Montgomery for some 20 years; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in highest commendation, we congratulate the Honorable John M. Patterson on his Appellate Court Appointment and direct that a copy of this resolution be forwarded to him in expression of our sincere regard and of our extreme pleasure that an individual of his caliber ascends to the Bench.



Approved April 30, 1984

Time: 4:30 P.M.

Act No. 84-238

S.J.R. 176—Senators Hilliard, Aldridge, Amari, Bailey, Barron, Bedford, Bedsole, Bennett, Bishop, Cabaniss, Cooley, Corbett, Covington, deGraffenried, Denton, Dial, Dixon, Drinkard, Ellis, Figures, Foshee, Goodwin, Hand, Holmes, Langford, Little, Menton, Mitchem, Parsons, Pearson, Sanders, Smith (B), Smith (J), Strong and Teague

#### SENATE JOINT RESOLUTION

**WELCOMING, IN COMMENDATION, PRESIDENT JIMMY CARTER TO THE STATE OF ALABAMA.**

**WHEREAS, James Earl (Jimmy) Carter, our nations's 39th President, was the first president from the Deep South to be elected in more than one hundred years; and**

**WHEREAS, a native of our neighboring State of Georgia, President Carter attended Georgia Institute of Technology in Atlanta and graduated from the United States Naval Academy at Annapolis, serving in the Navy's nuclear submarine program as an aide to Admiral Hyman Rickover; and**

**WHEREAS, President Carter served as Chief Executive from 1977 to 1981, during which term he was instrumental in the peace negotiations between Israel and Egypt, and ultimately was successful in obtaining the release of the 52 Americans held hostage in Iran; and**

**WHEREAS, we have learned with pleasure that President Carter shortly will be visiting the State of Alabama for the purpose of addressing the students at Samford University, and the general public of Birmingham; it is a visit we greatly anticipate and we indeed welcome President Jimmy Carter to our state; and**

**WHEREAS, the Birmingham Bar Association invited President**

Jimmy Carter to speak at Samford University for Law Day; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we hereby most highly commend President Jimmy Carter from the Deep South State of Georgia and, on behalf of all Alabamians, extend to him a sincere warm welcome to Birmingham and to Alabama; and we gratefully extend out thanks to the Birmingham Bar Association for inviting President Jimmy Carter to speak at Samford University for Law Day.

**BE IT FURTHER RESOLVED,** that a copy of this resolution be provided for President Carter and presented in token of a friendship we value most highly.

Approved April 30, 1984

Time: 4:30 P.M.

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Act No. 84-239

H. 558—Reps. Smith, Richardson,  
Clark (J), Starr

### AN ACT

To amend Section 2-3-20, Code of Alabama (1975); to provide for the farmers' market facilities throughout this State for the efficient handling and sale of agricultural and agriculture related products; to create a certain farmers' market committee to advise on matters pertaining to such facilities; to prescribe the composition of such committee and the terms, duties, meetings, regulations and compensation of its membership; to prescribe punishment for violators of regulations adopted pursuant to this Act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 2-3-20, Code of Alabama (1975), is hereby amended to read as follows:

“§ 2-3-20. Acquisition of sites and erection of facilities, charges for space, services and facilities.

The Board of Agriculture and Industries is hereby authorized to acquire by purchase, donation, lease or condemnation, for and in the name of the State of Alabama a suitable site or sites accessible to highways and railroad and air terminal facilities and to erect and install thereon such structures, facilities and equipment as may be necessary for the inspection, grading, standardization, classification, refrigeration, dehydration (for both food and feed), canning, packing, processing, cold storage and marketing of agricultural products, including all staple food crops, fruits, vegetables, poultry, dairy products, fish and kindred products and to let or lease space and

facilities in such markets for the storage of such products pending inspection, grading, packing, canning, processing, classification, refrigeration, dehydration (for both food and feed) and marketing of such products and to make such charges for such space, services and facilities as will cover the reasonable costs of operation and maintenance of such markets, equipment and facilities; provided that such charges shall not be made with a view to producing any revenue or profit to the State of Alabama or to the Board but shall be based exclusively upon the reasonable cost of operation and maintenance and liquidation of costs on construction. All collections of such charges shall be deposited monthly in the State Treasury to the credit of the agricultural fund, and shall be used for payment of the expenses of operation and maintenance and liquidation of costs of construction of such markets and facilities, upon requisition upon the State Comptroller, to be paid by the warrant of the Comptroller upon the Treasury. Any monies remaining after payment of the above expenses may be used for the payment of principal and interest on any bonds issued for the purpose of construction of a farmers market facility, upon requisition upon the State Comptroller, to be paid by warrant of the Comptroller upon the State Treasury. Said collections received from operations of a farmers market facility are hereby appropriated for the above uses.

**Section 2.** The operation of any structure, facility, equipment or market as provided in this article shall be under the Commissioner of Agriculture and Industries. He is empowered to employ any necessary personnel for the efficient operation of said facilities or markets. At the discretion of the Commissioner, one or more personnel to be employed may be employed in the unclassified service as defined under Section 36-26-15."

**Section 3.** The Commissioner of Agriculture and Industries is empowered and authorized, with the approval of the State Board of Agriculture and Industries, to promulgate and enforce such rules and regulations, as in the opinion of the Commissioner, shall be necessary to carry out the purposes of this article. Any rules and regulations made and promulgated shall be posted in a conspicuous place at each structure, facility or market. When so promulgated and posted, such rules and regulations shall have the force and effect of law. Any person willfully violating the provisions of any rule or regulation after it has been promulgated and posted, as provided above, for over 30 days, shall be guilty of a Class B misdemeanor.

**Section 4.** To assist and advise the Board of Agriculture and Industries in carrying out its responsibilities prescribed in this article, there is hereby created the State Farmers' Market Committee, which shall consist of seven members as follows:

(A) The Commissioner of Agriculture and Industries, or at his discretion, a full-time employee of the State Department of Agriculture and Industries.

(B) The Director of the Alabama Cooperative Extension Service, or at his discretion, a full-time employee of the Alabama Cooperative Extension Service.

(C) The President of the Alabama Farm Bureau Federation or at his discretion, a full-time employee of the Federation.

(D) One member to be appointed by the Speaker of the House of Representatives of the Legislature of Alabama.

(E) One member to be appointed by the Lieutenant Governor of the State of Alabama.

(F) Two members to be appointed by the Governor of Alabama. One member's primary occupation shall be the production of fresh fruits and vegetables and the other member's primary occupation shall be a wholesale or retail merchant of agricultural or agriculture related products.

Terms of office of the respective members representing the Commissioner of Agriculture and Industries, the Alabama Cooperative Extension Service and the Farm Bureau Federation shall be for the duration of the term of office of said Commissioner of Agriculture and Industries, the Director of the Cooperative Extension Service and the President of the Farm Bureau Federation. The first term of office of the members appointed by the Lieutenant Governor and the Speaker of the House shall be for two years. The term of office of the two members appointed by the Governor shall be for four years. Any successive appointments of those members appointed by the Governor, Lieutenant Governor or the Speaker of the House shall be for a period of four years.

The Commissioner of Agriculture and Industries or his appointed representative shall serve as secretary to the committee and shall also preside as chairman until such time as a chairman can be routinely elected. The committee shall meet as often as necessary on call of the chairman. Members shall receive mileage, per diem and subsistence as is provided by law for State boards, committees and commissions for attending meetings of the committee. Provided, however, that the committee shall meet at least quarterly and the first meeting of the committee shall be within 30 days from the appointment of the committee members.

**Section 5.** In the exercise of its functions, the committee shall make recommendations to the Commissioner of Agriculture and Industries as to the implementation and administration of the

responsibilities of said Department under this article, and conduct studies and compile information as deemed necessary as a basis for such recommendation. At the end of each fiscal year, a complete financial statement and report will be furnished by the Department of Agriculture and Industries to the committee. This report, along with a state of any market report from the committee shall be presented to the Governor.

**Section 6.** The provisions of this Act are cumulative and shall not be interpreted as repealing any provision of Chapter 5 of Title 2, Code of Alabama (1975), regarding Farmers Market Authority.

**Section 7.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 8.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 1, 1984

Time: 4:15 P.M.

Act No. 84-240

H. 88—Reps. Coburn, Johnson (Roy), Holley

### AN ACT

To require all tags, plates or attachments on motor vehicles to comply with certain federal standards as relates to reflection properties; to require the revenue department to implement the provisions of this act and to authorize rule and regulation power for such purposes; to provide for an increase in tag or plate costs for passenger automobiles, trucks with a gross weight of 8,000 pounds or less and motorcycles; to provide for the collection, distribution and use of such fees; to provide that this act shall be supplemental to and in pari materia to existing law; and to provide an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** (a) Effective January 1, 1987, every license tag or plate issued under the provisions of this Act shall be manufactured in such a manner as to meet the minimum federal performance standards as set out in Table I of the Society of Automotive Engineers Standard J594e, "Reflex Reflectors," of Federal Standard 108.

(b) The state revenue department shall implement the provisions of this act and, for such purpose, is authorized to promulgate rules and regulations and to adopt plans for such tags or plates, and all decals, slogans, stickers, symbols, characters and other attach-

ments, all of which shall be supplied by the department of corrections.

**Section 2.** (a) Effective October 1, 1984, in addition to the regular license tax or registration fee for each passenger automobile as established in § 40-12-242, Code of Alabama 1975, there shall be an additional fee of \$10.00.

(b) Effective October 1, 1984, in addition to the regular license tax or registration fee for each truck with a gross weight of 8,000 pounds or less as established in § 40-12-248, Code of Alabama 1975, there shall be an additional annual fee of \$10.00.

(c) Effective October 1, 1984, in addition to the regular license tax or registration fee for each motorcycle as established in § 40-12-242, Code of Alabama 1975, there shall be an additional annual fee of \$8.00.

**Section 3.** The additional fees collected each month by the probate judge, license commissioner or other license issuing official under the provisions of (a), (b) and (c), Section 2 of this Act shall not be disbursed as provided by §§ 40-12-269 and 40-12-270, Code of Alabama 1975, but shall be deposited to the general fund to be used by the department of public safety for the cost of traffic regulation, and the expense of enforcing state traffic and motor vehicle laws.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** The provisions of this act shall be construed in pari materia with the provisions of existing laws, specifically those provisions of Chapter 6 of Title 32, and subdivision 2 (§§ 32-6-60 through 32-6-219) and Chapter 12 of Title 40 and subdivision 1 (§§ 40-12-240 through 40-12-296) of said Chapters 6 and 12, all of the Code of Alabama 1975. The provisions hereof are supplemental to the above-cited provisions of law and shall supersede and repeal only those provisions of law and any other provisions of law which conflict herewith.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 30, 1984

Time: 4:30 P.M.

## HOUSE JOINT RESOLUTION

CONGRATULATING DR. JAMES E. MARTIN, PRESIDENT, AUBURN UNIVERSITY.

WHEREAS, Dr. James E. Martin has been serving as President of Auburn University since February 15, 1984; and

WHEREAS, he came back to his native state after many years filled with academic accomplishments at several institutions including serving as President of the University of Arkansas System; and

WHEREAS, Dr. Martin has traveled throughout the state meeting with alumni and friends of the University, talking about the value of higher education as well as the future of Auburn University; and

WHEREAS, this man will help provide the kind of leadership which is necessary for our state to reach its potential in economic development and progress; and

WHEREAS, Dr. Martin will be formally inaugurated as the fourteenth President of Auburn University on April 27, 1984; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we congratulate Dr. Martin and wish him many years of productivity and happiness at Auburn University and in the State of Alabama.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to Dr. Martin and his family that they will know the Legislature's high regard for him.

Approved April 30, 1984

Time: 4:30 P.M.

Act No. 84-242

H. 346—Rep. Britnell

## AN ACT

To amend sections 22-50-1 thru 22-50-6, 22-50-8 thru 22-50-17, 22-50-19, 22-50-20 and 22-50-23 of the Code of Alabama 1975, relating to the department of mental health so as to redesignate the department of mental health as the department of mental health and mental retardation; to designate the method of appointing members of the mental health and mental retardation board and to provide that such board shall be advisory, to specifically repeal Section 22-50-7, and to establish the department as a state agency responsible to the governor of Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 22-50-1, 22-50-2, 22-50-3, 22-50-4, 22-50-

5, 22-50-6, 22-50-8, 22-50-9, 22-50-10, 22-50-11, 22-50-12, 22-50-13, 22-50-14, 22-50-15, 22-50-16, 22-50-17, 22-50-19, 22-50-20 and 22-50-23 Code of Alabama 1975, be amended to read as follows:

“Section 22-50-1. For the purpose of this chapter, the following terms shall have the meanings respectively ascribed to them by this section:

“(1) **MENTAL HEALTH SERVICES.** Diagnosis of, treatment of, rehabilitation for, follow-up care of, prevention of and research into the causes of all forms of mental or emotional illness, including, but not limited to alcoholism, drug addiction, or epilepsy in combination with mental illness or mental retardation.

“(2) **MENTAL RETARDATION SERVICES.** Evaluation for, amelioration of, habilitation for, prevention of, and research into the causes of mental retardation.

“(3) **PATIENTS.** Those persons afflicted with mental or emotional illness.

“(4) **CLIENTS.** Those persons identified as receiving or needing services for mental retardation.

“(5) **DEPARTMENT.** The department of mental health and mental retardation.

“Section 22-50-2. There shall be created and established a department of the state government to be known as the department of mental health and mental retardation. The department shall be composed of the state mental health and mental retardation commissioner and such divisions and administrative sections as the mental health and mental retardation commissioner may direct. The principal offices of the department shall be located at the state capitol. The department shall perform the functions prescribed in this chapter.

“Section 22-50-3. All fees, receipts, income of the department of mental health and mental retardation shall be paid over to a departmental treasurer, to be selected by the commissioner, or to a bank in lieu of the treasurer, as the commissioner may direct, and may be expended as authorized by the commissioner for support, maintenance, and operation of the state hospitals, Partlow State School and Hospital, and other institutions, services and programs subject to the jurisdiction and control of the department.

“Section 22-50-4. The governor and the commissioner of mental health and mental retardation are hereby constituted a public corporation to be known as the department of mental health and mental retardation.

“Section 22-50-5.



"(1) In order to coordinate the activities of the department of mental health and mental retardation and to advise with such department and to better acquaint the public with the needs and activities of such department, there is hereby created a board of trustees for the department of mental health and mental retardation to be composed of sixteen (16) members. The governor, the commissioner of mental health and mental retardation, the lieutenant governor and the speaker of the house of representatives shall be ex-officio members of such board of trustees. The remaining twelve (12) members shall be appointed by the governor, one (1) from each of the congressional districts and the remainder from the state at large. One of the state at large positions shall be selected from nominations offered by the association for retarded citizens of Alabama and one of the state at large positions shall be selected from nominations offered by the mental health association of Alabama. All appointed trustees shall have demonstrated a concern for the programs and services provided by the department of mental health and mental retardation and should represent a balance of primary interest areas or expertise.

"(2) The governor shall be chairman of the board of trustees and the commissioner of mental health and mental retardation shall be the secretary. The board shall meet quarterly at a place to be designated by the chairman and may meet more frequently upon the call of the chairman, or a majority of the members.

"(3) As soon as practicable after this act becomes law, the governor shall appoint four (4) members for a term of one (1) year, four (4) members for a term of two (2) years; four (4) members for a term of three (3) years; all trustees shall take office affective upon appointment. No trustee shall serve more than three consecutive three year terms; provided, however, that trustees shall continue to serve until their successors have been appointed.

"Section 22-50-6.

"Subsequent appointments shall be made for a period of three (3) years except that vacancies shall be filled by the governor for the unexpired term only.

"Section 22-50-8. The trustees shall receive \$100.00 per day and mileage expenses while attending meetings of the board of trustees or while engaged in other official duties at the request of the governor or board of trustees.

"Section 22-50-9. The department of mental health and mental retardation through its commissioner is hereby authorized to act in any prudent way to provide mental health services and mental retardation services for the people of Alabama.

“Section 22-50-10.

“Upon passage of this bill, the Alabama mental health board shall cease to exist and the powers and responsibilities shall be vested in the department of mental health and mental retardation through its commissioner.

“Section 22-50-11. The department of mental health and mental retardation is given hereby the following additional and cumulative powers through its commissioner:

“(1) It is authorized and directed to set up state plans for the purpose of controlling and treating any and all forms of mental and emotional illness and any and all forms of mental retardation and shall divide the state into regions, districts, areas or zones, which need not be geographic areas, but shall be areas for the purpose of establishing priorities and programs and for organizational and administrative purposes in accordance with these state plans.

“(2) It is designated and authorized to supervise, coordinate and establish standards for all operations and activities of the state related to mental health and mental retardation and the providing of mental health services and mental retardation services; and it is authorized to receive and administer any funds available from any source for the purpose of acquiring building sites for, constructing, equipping, maintaining or operating mental health centers, and community mental retardation programs or facilities or institutions for the purpose of providing mental health services and mental retardation services.

“(3) It is hereby designated as the single state agency of the state of Alabama to receive and administer any and all funds available from any source for the purpose of training, research and education in regard to all forms of mental and emotional illness and all forms of mental retardation through its commissioner.

“(4) It is hereby authorized to enter into contracts with any other state or federal agency or with any private person, organization or group capable of contracting if it finds such action to be in the public interest. However, a resident of Alabama shall not be transferred from a state institution or facility to any institution or facility outside the state of Alabama, by contract or otherwise; provided, that with the consent of the patient or client or the consent of the members of his immediate family, a resident of this state may be transferred to a mental hospital, mental retardation facility or other facility of another state.

“(5) It may, in its discretion, develop a program for the care of aged patients and operate, in any area of the state, nursing homes which shall care for and treat patients that require primary treat-

ment for their geriatric infirmities; such nursing homes operated by the department shall meet the standards duly promulgated by the state board of health and shall be licensed under its authority. The department is further authorized to transfer such geriatric patients to private nursing homes within the state of Alabama if it finds such action to be in the public interest; provided, that with the consent of the patient or client or the consent of the members of his immediate family a resident of this state may be transferred to a mental hospital, mental retardation facility, or other facility of another state.

“(6) It is hereby authorized to appoint advisory councils as needed from among those leaders in disciplines concerned with mental and emotional illness and disciplines concerned with mental retardation or from the public generally to advise it in regard to plans, programs and regulations. The mental health and mental retardation commissioner is ex-officio chairman of these advisory councils and shall call meetings when advice is needed or when a majority of any such advisory council requests a meeting.

“(7) The members of such advisory councils shall be entitled to be reimbursed for mileage expenses, not to exceed the amount prescribed by state law for attending meetings called by the mental health and mental retardation commissioner. Such sums as are necessary to meet these mileage expenses are hereby appropriated from the Alabama special mental health and mental retardation fund and shall be paid on warrants signed by the mental health and mental retardation commissioner.

“(8) The mental health and mental retardation department is hereby authorized and directed to establish and promulgate reasonable rules, policies, orders and regulations providing details of carrying out its duties and responsibilities, including bylaws for its own organization, government and procedures.

“(9) It is authorized and directed to purchase or lease land or acquire property by eminent domain and to purchase, lease, rent, sell, exchange or otherwise transfer property, land, buildings or equipment in order to carry out its duties and responsibilities.

“(10) It is authorized and directed to determine reasonable fees for services which it makes available to the public and it shall collect such fees unless, on application and investigation, it is determined that the person receiving such services is unable to pay the established fee, and in such case, such amount as he is able to pay will be collected.

“(11) It is authorized and directed to establish and promulgate reasonable minimum standards for the construction and operation of facilities, including reasonable minimum standards for the admis-

sion, diagnosis, care, treatment, transfer of patients or clients and their records, and also including reasonable minimum standards for providing day care, outpatient care, emergency care, inpatient care and follow-up care when such care is provided for persons with mental or emotional illness, or day care or residential care for persons who are mentally retarded.

“(12) It is authorized to inspect any institution or facility providing any kind of treatment or care for those suffering from mental or emotional illness or mental retardation, and shall certify any such institution or facility which meet its minimum standards to the state board of health.

“(13) The state board of health may issue a license to operate such facilities or institutions as may be established under the provisions of this chapter upon recommendation of the department and upon certification by said department that such facility or institution is in compliance with rules and regulations promulgated by said department and approved by said state board of health.

“(14) It is authorized to establish and collect reasonable fees for necessary inspection services incidental to certification of compliance.

“(15) It is authorized and directed to provide hearings for anyone claiming to be damaged by decisions of its employees or agents, and it may delegate the holdings of such hearings to administrative hearing officers. When a decision of an administrative hearing officer is adopted by the commissioner, the said decision then and there become a final decision and may be reviewed in the circuit court only upon a finding of the court that such decision was arbitrary, illegal or capricious.

“(16) It may file and prosecute civil actions in any court in the name of the mental health and mental retardation department to enforce this article and such rules and regulations as may be duly promulgated under authority of this article; such civil actions may include actions for an injunction to restrain any person, agency or organization from violating any provision of this article or any rule or regulation duly promulgated under authority of this article, and it may also, with the approval of the attorney general, authorize its legal counsel to attend to any other litigation which concerns the department.

“(17) It is authorized to accept gifts, trusts, bequests, grants, endowments or transfers of property of any kind and shall prudently manage such property in accordance with the terms of such gifts or transfer of property and in accordance with sound financial principles.

"(18) It is hereby authorized and directed to receive moneys coming to it by way of fees for services or by appropriations and shall prudently manage such moneys in accordance with sound financial principles.

"(19) The employees of the department shall be governed by personnel merit system rules and regulations, the same as other employees in state service, as administered by the state's personnel department; provided, that such rules and regulations shall not be applicable to the appointment, tenure or compensation of physicians, surgeons, psychiatrists, psychologists, dentists, social workers, nurses and attorneys. Employees of the department on October 1, 1965, who have been so employed for six months immediately preceeding such date, shall remain in their respective employments during good behavior; but nothing in this subdivision shall be construed to prevent or preclude the removal of an employee for cause in the manner provided by law.

"(20) All offices, services, programs or other activities of the Alabama mental health board are hereby made offices, services, programs for other activities of the department of mental health and mental retardation, and the commissioner, is hereby authorized to reorganize such offices, services, programs, or other activities so as to achieve economy and efficiency; and the said commissioner may establish bureaus, divisions, hospitals, clinics, mental health centers, mental retardation programs, alternative living arrangements for the mentally retarded, or other facilities for providing mental health services and mental retardation services, if he finds such action to be in the public interest.

"(21) All purchases and construction and supply contracts of the department shall be made or let on a competitive bidding basis, and may be made through the state purchasing agent, or otherwise, as the commissioner may direct. No purchases, except for rights-of-way, shall be made from, nor shall any sales be made to, any member of the legislature, any member of the mental health and mental retardation board of trustees hereby created or any other person holding an office of profit with the state of Alabama.

"(22) The department is authorized, at its discretion, to provide funding to community or state wide programs for the prevention and/or treatment of epilepsy.

"Section 22-50-12. The commissioner may establish a legal division, which shall be under the direction of an attorney authorized to practice law in the state of Alabama, and it shall be his duty to conduct the legal affairs of the department. The commissioner may appoint other attorneys to assist him. The compensation of any such attorney shall be paid from the funds of the department. Attorneys

appointed by the commissioner shall have the authority to represent the department and employees of the department in litigation concerning the department.

"Section 22-50-13. As near after the end of the fiscal year as possible the department shall print and send to the governor a report consisting of facilities of the department, needs of facilities under its jurisdiction, mental health and mental retardation conditions in the state with respect to the extent to which needs are being met, plans for the future, financial report for the preceeding year, and the names and addresses of the trustees; and a sufficient number of copies shall be printed to distribute to the members of the legislature.

"Section 22-50-14. Every budget period the department shall present the governor a request for funds based on projected needs for mental health and mental retardation services in the state, together with a budget showing the expenditure of such requested funds; and the governor shall include in his appropriation bill a request for funds to meet the financial needs of the department.

"Section 22-50-15. Any state supported facility under the jurisdiction of the department providing services requiring on-premises residence of patients or clients, including but not limited to Bryce Hospital, Searcy Hospital, and Partlow State School and Hospital, shall be considered an essential function of the state, and funds allocated for the support of said state supported facilities shall not be subject to proration at any time a deficit occurs in the general funds.

"Section 22-50-16. The governor shall appoint the mental health and mental retardation commissioner and shall fix his term of office and salary, such salary to be established without regard to any limitations now, or hereafter, established by law unless such law specifically refers to such mental health and mental retardation commissioner. The commissioner shall serve at the pleasure of the governor. The said mental health and mental retardation commissioner so appointed shall, appoint all officers and employees of the department or he may authorize any superintendent, division or bureau head, or other administrator to select with his approval all staff members and employees, and shall fix the salaries of the officers and employees of the mental health and mental retardation department, without regard to any limitation established by law, unless such law passed hereafter shall refer to the particular officer or employee of the mental health and mental retardation department. The commissioner may appoint an associate commissioner for mental illness, an associate commissioner for mental retardation and an associate commissioner for administration and personnel. The associate commissioners shall serve at the pleasure of the commissioner. The mental

health and mental retardation commissioner shall exercise supervision over all the officers and employees of the mental health and mental retardation department and should any such officer or employee fail to perform faithfully any of the duties which are lawfully prescribed for him, or if he fails or refuses to observe or conform to any rule, regulation, or policy of the mental health and mental retardation department, the mental health and mental retardation commissioner may remove him from office.

"Section 22-50-17. No person, partnership, corporation, or association of persons shall operate a facility or institution for the care or treatment of any kind of mental or emotional illness or services to the mentally retarded as defined in this chapter, without being certified by the department or licensed by the state board of health; provided that nothing in this section shall be construed so as to require a duly authorized physician, psychiatrist, psychologist, social worker or Christian Science practitioner to obtain a license for treatment of patients in his private office, unless he keeps two or more patients in his office for continuous periods of twenty-four hours or more in one week.

"Section 22-50-19. Any person who has been legally damaged by a final order or decision of the mental health and mental retardation department may have a review of such decision in the circuit court, provided a sworn complaint is filed within fifteen days of the date of such order or decision, charging that such order or decision was arbitrary, illegal or capricious; and provided further that security be given to cover court costs and costs of preparing the record of the proceedings before the mental health and mental retardation department, should the said order be upheld by the court.

"Section 22-50-20. The mental health and mental retardation department shall prescribe forms for probate judges to use which would give information deemed necessary by the department about prospective patients or clients.

"Section 22-50-23. Any person, partnership, corporation or association that violates the provisions of this chapter or any regulations promulgated under authority delegated to the mental health and mental retardation department, and after due notice served by registered or certified mail or personally, shall be liable to pay a penalty of \$50.00 per day for each day of such violation. Any officer or any employee of the mental health and mental retardation department, or any other person who shall allow, assist, or abet in the escape of any patient or client confined by court action under the authority of the mental health and mental retardation department shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding \$100.00, and he may be punished

by imprisonment in the county jail or at hard labor for the county, not exceeding 90 days, the imprisonment to be at the discretion of the judge trying or presiding over the trial of the case. Any member of the legislature, any member of the mental health and mental retardation department, or any holder of any office of profit with the state who takes any contact for work or services of the mental health and mental retardation department or any of its agencies, or is employed in any way under such contract, or sells any goods or supplies to the mental health and mental retardation department or any of its agencies or is in any wise pecuniarily interested in any such contract or sale, as principal or agent, must, on conviction, be fined not less than \$50.00 nor more than \$1,000.00 and also forfeit his office."

**Section 2.** Section 22-50-7, Code of Alabama, 1975 is hereby repealed in its entirety.

**Section 3.** Effective Date of Act. This Act shall become effective immediately upon its passage and approval by the governor, or upon otherwise becoming a law.

Approved May 1, 1984

Time: 4:15 P.M.

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Act No. 84-243

H. 359—Reps. Grimsley, Mathis

### AN ACT

To amend Sections 27-43-3, 27-43-6, and 27-43-15, Code of Alabama 1975, relating to legal expense insurance, so as to permit certain persons conducting life, accident and sickness insurance business to transact legal insurance business.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 27-43-3, 27-43-6 and 27-43-15, Code of Alabama 1975, are hereby amended to read as follows:

"§ 27-43-3. As used in this chapter, the following terms shall have the following meanings, respectively, unless the context requires otherwise:

"(1) Department. The department of insurance;

"(2) Commissioner. The commissioner of insurance of this state;

"(3) Insurer. Any person authorized to do a casualty insurance business or life, accident and sickness insurance business as an insurer in this state and organizations authorized to transact legal expense insurance under section 27-43-8;



“(4) Legal Expense Insurance. Such term means, irrespective of the definition of insurance in other chapters under this title, the assumption of a contractual obligation to pay for specific legal services or to reimburse for specific legal expenses, in consideration of a specified payment in advance for an interval of time, regardless of whether the payment is made by the beneficiaries individually or by a third person for them, but does not include the provision of or reimbursement for legal services incidental to other insurance coverages.

“§ 27-43-6. (a) Any domestic, foreign or alien insurer authorized to transact casualty insurance or life, accident and sickness insurance in this state may transact legal expense insurance in this state.

“(b) Legal service insurance corporations possessing a valid certificate of authority may transact legal expense insurance in this state.

“§ 27-43-15. Every legal service insurance corporation shall, on forms prescribed by the commissioner, register, on or before October 1 of each year, the name and business address of each contracting sales agent utilized by it in Alabama and shall, within 30 days after termination of the contract, notify the commissioner of such termination. At the time of said annual registration, a \$10.00 filing fee for each contracting sales agent shall be paid by the legal service insurance corporation to the commissioner. Any contracting sales agent utilized subsequent to the October 1 filing date shall be registered with the department within 10 days after such utilization. Such contracting sales agents shall be subject to the same regulations and controls as provided for casualty insurance representatives in chapter 7 of this title or the same regulations and controls as provided for life and/or accident and sickness insurance companies.”

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1984

Time: 5:05 P.M.

Act No. 84-244

S. 87—Senator Cooley

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### AN ACT

To provide for the enactment of the Alabama Uniform Parentage Act, creating a civil cause of action in the courts of this state for the determination of paternity for the purposes of support and other reasons; to provide for the definition of the parent

and child relationship and methods for the establishment of said relationship; to provide for a presumption of paternity; to provide for the jurisdiction of actions to determine paternity and support under this Act in those courts exercising jurisdiction over juvenile proceedings; to provide for the venue and service of process in said proceedings; to provide for the determination of the existence or non-existence of the father and child relationship and when and by whom these actions may be brought; to specifically provide that applicable sections of the Criminal Code shall remain available for the enforcement of a child's right to support; to provide for court-ordered blood tests, the selection of expert witnesses and evidence relating to paternity and the admissibility of such evidence; to provide for court orders determining paternity and the payment of support and the enforcement of such orders by the mother, the child or public authorities furnishing expenses and support; to provide that written agreements for support shall be enforceable by the courts; to provide that any party may be represented by an attorney and that the district attorney, special prosecutor and other attorney authorized to represent the State of Alabama shall prosecute all proceedings under this Act; to provide a statute of limitations for paternity actions under this act; to provide that any interested party may also bring an action to determine the existence or non-existence of the mother and child relationship; to provide for the issuance of a new birth certificate upon a determination of paternity; to further provide for the appeal of judgments rendered pursuant to this Act to the circuit court for a trial de novo and by a jury, if demanded; to provide for the treatment of the husband of a woman who has been the subject of artificial insemination with his consent, as the natural father of a child born thereof; and to specifically repeal Sections 26-12-1 through 26-12-9, Code of Alabama 1975.

*Be It Enacted by the Legislature of Alabama:*

### **Section 1. Short Title.**

This Act shall be known and may be cited as the Alabama Uniform Parentage Act.

### **Section 2. Parent and Child Relationship Defined.**

As used in this Act, the term "parent and child relationship" shall mean the legal relationship existing between a child and his natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties and obligations. It shall include the mother and child relationship and the father and child relationship.

### **Section 3. Relationship Not Dependent Upon Marriage.**

The parent and child relationship shall extend equally to every child and to every parent, regardless of the marital status of the parents.

### **Section 4. Same; How Established.**

The parent and child relationship may be established between a child and:

(1) The natural mother by proof of her having given birth to the child, or pursuant to the provisions of this Act;

(2) The natural father pursuant to this Act;

(3) An adoptive parent by proof of adoption or pursuant to the Revised Uniform Adoption Act.

### **Section 5. Presumption of Paternity.**

(a) A man is presumed to be the natural father of a child if:

(1) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court;

(2) Before the child's birth he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and

a. If the attempted marriage may be declared invalid only by a court, the child is born during the attempted marriage, or within 300 days after the termination of the attempted marriage by death, annulment, declaration of invalidity, or divorce; or

b. If the attempted marriage is invalid without a court order, the child is born within 300 days after the termination of cohabitation;

(3) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with the law although the attempted marriage is or could be declared invalid, and

a. He has acknowledged his paternity of the child in writing, such writing being filed with the appropriate court or the Bureau of Vital Statistics; or

b. With his consent, he is named as the child's father on the child's birth certificate; or

c. He is otherwise obligated to support the child either under a written voluntary promise or by court order;

(4) While the child is under the age of majority, he receives the child into his home or otherwise openly holds out the child as his natural child; or

(5) He acknowledges his paternity of the child in a writing filed in accordance with provisions of the legitimation statute.

(b) A presumption of paternity under this section may be rebutted in an appropriate action only by clear and convincing evidence. In the event two or more conflicting presumptions arise, that which is founded upon the weightier considerations of public policy

and logic, as evidenced by the facts, shall control. The presumption of paternity is rebutted by a court decree establishing paternity of the child by another man.

**Section 6.** Determination of Father and Child Relationship; Who May Bring Action; When Action May Be Brought.

(a) A child, a child's natural mother, or a man presumed to be its father under paragraph (1), (2), or (3) of Section 5(a) of this Act, may bring an action within five years of the birth of said child for the purpose of declaring the existence of the father and child relationship presumed under paragraph (1), (2), or (3) of Section 5(a) of this Act; or

(b) Any interested party may bring an action at any time for the purpose of determining the existence or non-existence of the father and child relationship presumed under Paragraph (4) or (5) of Section 5(a) of this Act.

(c) An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under Section 5 may be brought by the child, the mother, or personal representative of the child, the public authority chargeable by law with support of the child, the personal representative or a parent of the mother if the mother has died, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

(d) If an action under this section is brought before the birth of the child, all proceedings shall be stayed until after the birth, except service of process and the taking of depositions to perpetuate testimony.

(e) If the child has been adopted, an action may not be brought.

**Section 7.** Style of Proceedings; Prosecution of Proceedings.

Actions commenced under this Act shall be in the name of the State of Alabama on relation of the complaining witness or party against the person claimed to be the father or against the person alleged to owe a duty of support as the defendant. The district attorney, special prosecutor or attorney otherwise authorized to represent the State of Alabama shall appear and prosecute all proceedings brought under this Act.

**Section 8.** Limitations on Recovery.

(a) The father's liabilities for past education and necessary support are limited to a period of two years next preceding the commencement of an enforcement action under this Act unless an order of support has been previously entered.

(b) An action to determine paternity for the purposes of obtaining support shall not be brought after the child attains age 19.

(c) The provisions of this section and Section 6 do not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to distribution and closing of decedents' estates or to the determination of heirship, or otherwise.

### **Section 9. Civil Action; Paternity; Nonsupport.**

(a) An action under this Act is a civil action governed by the rules of civil procedure. The mother and child and the alleged father are competent to testify and may be compelled to testify. All of the provisions of Sections 12 and 13 of this Act, including those regarding evidence, expert testimony and blood tests, shall apply in actions brought under this Act. The action brought may be joined with an action for divorce, annulment, separate maintenance or support.

(b) An action to determine paternity may be commenced upon the complaint of any female who is pregnant with or the mother of a child.

(c) An action to determine paternity may also be commenced upon the complaint of the child, the person having legal custody of the child or the representative of the public authority chargeable by law with the support of the child.

(d) A complaint for nonsupport of a child may be commenced by complaint by any party listed in subsections (b) and (c) of this section alleging sufficient facts that the defendant owes a duty of support, provided, that support payments have not been ordered previously pursuant to a decree of divorce. Upon a showing that the child is owed a duty of support by the defendant, such duty may be established pursuant to the requirements of Section 14 of this Act.

(e) In addition to the civil action for nonsupport provided by this section, applicable sections of the criminal code are available for enforcement of the child's right of support.

### **Section 10. Jurisdiction; Venue; Process; Conduct of Hearing.**

(a) The causes of action provided by this Act shall be brought in the juvenile or family court division of the district or circuit court and wherever used in this Act the word "court" shall mean the juvenile or family court division of the district or circuit court and specifically shall include any district or circuit court judge otherwise sitting in one of these divisions.

(b) A defendant who resides in this state thereby submits to

the jurisdiction of the courts of this state as to an action brought under this Act.

(c) A person who is a non-resident of this state and who has sexual intercourse in this state thereby submits to the jurisdiction of the courts of this state as to an action brought under this Act with respect to a child who may have been conceived by that act of sexual intercourse. Jurisdiction over a non-resident may be acquired only by personal service of summons outside this state or by certified mail with proof of actual receipt.

(d) A defendant who resides in this state thereby submits to the jurisdiction of the courts of this state as to a Uniform Reciprocal Enforcement of Support action filed in this state by an initiating state for the purpose of establishing paternity. If the defendant asserts as a defense that he is not the father of the child for whom support is sought and it appears to the court that the defense is not frivolous, and if both parties are present at the hearing or if proof required in the case indicates the presence of either or both is not necessary, the court shall adjudicate the issue of paternity. The appropriate provisions of this Act shall apply to such actions. Upon determination of paternity or non-paternity, the appropriate sections of the Reciprocal State Enforcement of Duty to Support Act shall apply.

(e) The court shall retain jurisdiction of the cause for the purpose of entering such other and further orders as changing circumstances of the parties may in justice and equity require.

(f) The complaint for paternity or nonsupport shall be filed in the county in which the child resides or the county in which the defendant resides.

(g) Process directed to the defendant shall issue forthwith requiring the defendant to file written pleadings to the complaint in the manner prescribed by appropriate court rules.

(h) The court in which the action originated shall determine both the law and the facts without the intervention of a jury. A trial by jury may be had only as provided under Section 20 of this Act.

### **Section 11. Parties.**

The child may be made a party to the action. If the child is a minor he shall be represented by his general guardian or a guardian ad litem appointed by the court, if not otherwise represented by counsel. The child's mother or father may not represent the child as guardian or otherwise. The court may appoint the public authority chargeable by law with the support of the child as guardian ad litem for the child. The natural mother, each man presumed to be the

father under the provisions of Section 5 of this Act, and each man alleged to be the natural father, shall be made parties or, if not subject to the jurisdiction of the court, shall be given notice of the action in a manner prescribed by the court and an opportunity to be heard. The court may align the parties.

**Section 12. Blood Tests; Selection of Experts; Admissibility; Compensation.**

(a) Upon application of the defendant in a paternity proceeding or any other party to the action, the court shall order the mother, child and defendant to submit to one or more blood tests to assist the court in determining paternity of the child. No such blood test shall be taken before the child reaches the age of six months. Whenever the court orders any such blood test to be taken and any of the persons whose blood is to be taken refuses to submit to the test, such fact shall be disclosed upon the trial, unless good cause is shown for not doing so.

(b) Any tests shall be made by an expert qualified as an examiner of blood types who shall be approved by the court. The expert may be called by the court or any party as a witness to testify to the blood test results and shall be subject to cross-examination by the parties. The blood test results may be admitted into evidence by the defendant. The blood test results may be admitted into evidence by the state only if the statistical probability of the alleged father's paternity is available. Blood testing methods include, but are not limited to, the human leukocyte antigen test. If more than one blood test is performed and the results are conflicting, none of the blood test results shall be admissible as evidence of paternity or non-paternity.

(c) Compensation of each expert witness shall be paid as the court shall order. The court shall order said compensation to be paid prior to the administration of the blood test.

**Section 13. Evidence Relating to Paternity.**

(a) Evidence relating to paternity may include:

(1) Evidence of sexual intercourse between the mother and alleged father at any possible time of conception;

(2) An expert's opinion concerning the statistical probability of the alleged father's paternity based upon the duration of the mother's pregnancy;

(3) Blood test results, weighed in accordance with evidence, if available, of the statistical probability of the alleged father's paternity;

(4) Medical or anthropological evidence relating to the alleged

father's paternity of the child based on tests performed by experts. If a man has been identified as a possible father of the child, the court may, and upon request of a party shall, require the child, the mother, and the man to submit to appropriate tests; and,

(5) All other evidence relevant to the issue of paternity of the child.

(b) Upon refusal of any witness, including a party, to testify under oath or produce evidence, the court may order him to testify under oath and produce evidence concerning all relevant facts. If the refusal is upon the ground that his testimony or evidence might tend to incriminate him, the court shall grant him immunity from all criminal liability on account of the testimony or evidence he is required to produce. An order granting immunity bars prosecution of the witness for any offense shown in whole or in part by testimony or evidence he is required to produce, except for perjury committed in his testimony. The refusal of a witness, who has been granted immunity to obey an order to testify or produce evidence shall be punishable as a civil contempt of the court.

(c) In an action against an alleged father, evidence offered by the alleged father with respect to another man who is not subject to the jurisdiction of the court concerning his sexual intercourse with the mother at or about the probable time of conception of the child is admissible in evidence only if the alleged father has undergone and made available to the court blood tests the results of which do not exclude the possibility of the alleged father's paternity of the child. A man who is identified and is subject to the jurisdiction of the court shall be made a defendant in the action.

#### **Section 14. Orders.**

(a) The order of the court determining the existence or non-existence of the parent and child relationship is determinative for all purposes. Upon paternity being established, the court shall immediately determine support payments as the conclusion of the paternity hearing and make support payment determination a part of the order establishing paternity.

(b) The order of the court shall include a statement of fact of jurisdiction being acquired in situations of service obtained by out-of-state personal service or service obtained by out-of-state certified mail with proof of return receipt.

(c) If the order of the court is at variance with the child's birth certificate, the court shall order that a new birth certificate be issued pursuant to the provisions of Section 19 of this Act.

(d) The order may contain any other provision directed against



the appropriate party to the proceeding, concerning the duty of support, the custody of the child or the furnishing of bond or other security for payment under the order. The order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement.

(e) Support orders ordinarily shall be for periodic payments which may vary in amount. Support orders may be in a lump sum amount if awarded against the appropriate party as a judgment representing an accrued arrearage or reimbursement to the agency providing support.

(f) In determining the amount to be paid by the parent for support of the child and the period during which the duty of support is owed, a court enforcing the obligation of support shall consider the needs of the child and the ability of the parents to support.

(g) Proof that a person owes a duty of support and has not contributed reasonably to support his child or proof of the award of public assistance on behalf of his child shall constitute sufficient basis for entry of an order of support.

#### **Section 15. Enforcement of Order.**

(a) If the existence of the father and child relationship is declared, or paternity or a duty of support has been acknowledged or adjudicated under this Act, prior law or applicable sections of the criminal code, the obligation of the father may be enforced in the same or other proceedings by the mother, the child, the public authorities that have furnished or may furnish the reasonable expenses of pregnancy, confinement, education, or support, or by any other person, including a private agency, to the extent these expenses have been or are being furnished.

(b) The court shall order payments to be made to a person, corporation, agency designated to administer them under the supervision of the court, or the public authority which has furnished or may furnish support for the child including but not limited to monetary and medical payments.

(c) Willful failure to obey the judgment or order of the court is a civil contempt of the court. All sanctions for enforcement of judgments apply.

#### **Section 16. Promise to Render Support.**

(a) Any promise in writing to furnish support for a child, growing out of a supposed or alleged father and child relationship does not require consideration and is enforceable according to its terms in any court having jurisdiction under 10(a), subject to the provisions of Section 6(d) of this Act.

(b) Stipulations in any agreement that seek to bar a paternity action are not enforceable.

**Section 17. Right to Counsel; Costs.**

(a) In all proceedings under this Act, any party may be represented by counsel. If the public authority chargeable by law with support of a child is a party, the appropriate attorney as provided in Section 7 of this Act shall represent the public authority. If the child receives public assistance and no conflict of interest exists, the appropriate attorney shall also represent the person having custody. If the child does not receive public assistance, the appropriate attorney may represent the person having custody at that person's request.

(b) The court shall appoint a guardian ad litem to represent a defendant who is a minor and who is not otherwise represented by counsel.

(c) It is the express intent of this Act that parties to proceedings under the Act should pay the fees and expenses of retained counsel, expert witnesses, guardians ad litem, the costs of appropriate tests and other costs of the trial as they may, themselves, incur. The court may order reasonable fees for attorneys, expert witnesses, guardian ad litem fees, costs of appropriate tests and other costs of the trial, including docket fees, to be paid by the parties in such proportions as the court may direct. In the event the court determines that a party is unable to pay the fees and costs as directed, it may order fees and costs, including fees and costs of appropriate tests, if such tests have been ordered by the court as provided in Section 12 of this Act, to be paid from the fund entitled, "Court Costs Not Otherwise Provided For". If costs and fees are ordered to be paid from said fund, claims shall be submitted by the clerk of the court to the state comptroller for audit and allowance and, if approved by the comptroller, shall be forwarded to the state treasurer for payment from said fund. Provided, docket fees and fees of retained counsel shall not be paid from said fund. Docket fees shall be waived if the court determines that the parties are incapable of paying them.

(d) Nothing contained in this Act shall be construed so as to guarantee court-appointed counsel at the state's expense to any party who is not otherwise entitled to court-appointed counsel under statutory or case law. Appointment of counsel for a minor defendant or party who is entitled to counsel and the compensation of such appointed counsel shall be governed by the other applicable law.

(e) When a party bringing an action is represented by the dis-

strict attorney or attorney authorized to represent the State of Alabama, no filing fee shall be paid to the clerk of the court but may be taxed as a cost of the action as provided herein.

**Section 18. Action to Declare Mother and Child Relationship.**

Any interested party may bring an action to determine the existence or non-existence of a mother and child relationship. Insofar as practicable, the provisions of this Act applicable to the father and child relationship apply.

**Section 19. Birth Records.**

(a) Upon order of a court of this State or upon request of a court of another state, the Registrar of Vital Statistics shall prepare a new certificate of birth consistent with the findings of the court and shall substitute the new certificate for the original certificate of birth.

(b) The fact that the father and child relationship was declared after the child's birth shall not be ascertainable from the new certificate but the actual place and date of birth shall be shown.

(c) The evidence upon which the new certificate was made and the original birth certificate shall be kept in a sealed and confidential file and be subject to inspection only upon the consent of the court and all interested persons, or in exceptional cases only upon an order of the court for good cause shown.

**Section 20. Appeals.**

(a) The State of Alabama, the person on the relation of whom the action is brought or the defendant may appeal from any final judgment rendered under the provisions of this Act. Appeals shall be taken from the juvenile or family court division of either the district or circuit court to the circuit court for a trial de novo and for a jury trial, if demanded by the appellant or the defendant. Written notice of appeal shall be filed with the clerk of the circuit court within 14 days of the date of the order appealed from or the denial of a post trial motion. The defendant may file a supersedeas bond on appeal to stay enforcement of a support order, but a support order shall continue to accrue during the pendency of the appeal. Any party may appeal to the Court of Civil Appeals pursuant to the Alabama Rules of Appellate Procedure and the Alabama Rules of Juvenile Procedure upon the entry of a final judgment in the circuit court on the trial de novo. If the appeal is taken by the state, no security for the cost need be given.

(b) Appeals may be taken from the juvenile or family court division of the district or circuit court directly to the Court of Civil

Appeals if there is an adequate record or stipulation of the facts by the parties and the right to a jury trial is waived by all parties entitled thereto. Provided, that this subsection shall specifically not be construed as requiring the juvenile and family court divisions of the district and circuit courts to maintain a record of the proceedings brought pursuant to the provisions of this Act. Written notice of appeal in appeals brought pursuant to the provisions of this Act. Written notice of appeal in appeals brought pursuant to this subsection shall be filed within 14 days of the entry of the judgment or order appealed from.

### **Section 21. Artificial Insemination.**

(a) If, under the supervision of a licensed physician and with the consent of her husband, a wife is inseminated artificially with semen donated by a man not her husband, the husband is treated in law as if he were the natural father of a child thereby conceived. The husband's consent must be in writing and signed by him and his wife. The physician shall certify their signatures and the dates of the insemination, and file the husband's consent with the State Department of Health, where it shall be kept confidential and in a sealed file. However, the physician's failure to do so does not affect the father and child relationship. All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising physician or elsewhere, are subject to inspection only upon an order of the court for good cause shown. The supervising physician shall not be liable to any person, including the wife, the husband, or a child resulting from an artificial insemination procedure, for the release of any information pertaining to the artificial insemination which occurs through accident, error, omission, inadvertence or the intentional conduct, without malice, of the physician or his agents, servants, or employees.

(b) The donor of semen provided to a licensed physician for use in artificial insemination of a married woman other than the donor's wife is treated in law as if he were not the natural father of a child thereby conceived.

**Section 22.** Sections 26-21-1 through 26-12-9, Code of Alabama 1975, are expressly repealed and all laws or parts of laws which conflict with this Act are hereby repealed. The provisions of this Act shall not, however, be construed to repeal or supersede any laws not inconsistent herewith.

**Section 23.** The provisions of this Act are severable. If any portion of this Act shall be declared invalid by any court of competent jurisdiction, such declaration shall not affect the remaining portions of this Act.

**Section 24.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-245

S. 438—Senators Cooley and Bennett  
AN ACT

To amend Section 12-15-7 of the Code of Alabama 1975, relating to appointment of juvenile probation officers, so as to provide further for such appointments.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 12-15-7 of the Code of Alabama 1975 is hereby amended to read as follows:

“§ 12-15-7.

“(a) The court may appoint one or more probation officers, as otherwise authorized by law, certified by the department of youth services, who shall serve at the pleasure of the court. If more than one probation officer is appointed, one may be designated by the court as the chief probation officer or director of probation services, who shall be responsible for the administration of the probation services under the direction of the court.

“(b) For the purpose of carrying out the objectives and purposes of this chapter and subject to the limitations of this chapter or imposed by the court, a probation officer shall:

“(1) Make investigations, reports and recommendations to the juvenile court;

“(2) Receive and examine complaints and allegations of delinquency, in need of supervision or dependency of a child for the purpose of considering the commencement of proceedings under this chapter;

“(3) Refer to the department of pensions and security for investigations, reports and recommendations those complaints and allegations of dependency or other appropriate matters and may refer to the department of pensions and security for investigations, reports and recommendations those complaints on children in need of supervision;

“(4) Supervise and assist a child placed on probation or in his

protective supervision or aftercare by order of the court or other authority of law;

“(5) Make appropriate referrals to other private or public agencies of the community if their assistance appears to be needed or desirable;

“(6) Make predisposition studies and submit reports and recommendations to the court as required by this chapter, except as provided in subdivision (3) of this subsection; and

“(7) Perform such other functions as are designated by this chapter or directed by the court.

“(c) For the purposes of this chapter, a probation officer or representative of the department of pensions and security, with the approval of the court, shall have the power to take into custody and place in shelter or detention care a child who is under his supervision as a delinquent, in need of supervision or dependent when the probation officer or representative of the department of pensions and security has reasonable cause to believe that the child has violated the conditions of his probation, aftercare or terms of protective supervision or that he may flee from the jurisdiction of the court. A probation officer does not have the powers of a law enforcement officer with respect to a person who is not on probation or otherwise under his supervision.

“(d) If a probation officer or representative of the department of pensions and security takes a child into custody, he shall proceed as provided for in section 12-15-58.

“(e) Nothing herein shall be construed so as to prohibit any juvenile probation officer from being covered by the provisions of any local act establishing a local merit system or personnel board.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 7, 1984

Time: 4:35 P.M.

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Act No. 84-246

H.J.R. 302—Rep. Johnson (Roy)

### HOUSE JOINT RESOLUTION

BE IT RESOLVED BY THE ALABAMA LEGISLATURE,  
BOTH HOUSES THEREOF CONCURRING, That when we ad-

journal today, Thursday, April 26, 1984, we adjourn to meet again on Tuesday, May 1, 1984.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-247

H. 337—Reps. Starr, Davis, Grouby, Rogers, Spratt, Pratt, Escott, Bugg, Perdue, Melton, McDowell, Burke, Boles, Trammel, Horn, Albright, Butler, Grayson, Faulk, Blakeney, Mikell, Warren, Flowers, Buskey (John), Carothers, Mathis, Preuitt, Grimsley, Turnham, Sasser, Smith, Cosby, Onderdonk, Brooks, Bowling, Hooper, Johnson (R.G.), Mitchell, Turner, Biddle, Poole, Gaston, Coleman, Marietta, Hettinger, Lindsey, Johnson (Roy), Zoghby, Holley, Harper, Coburn, Seibels, Payne, Browder, Parker, Holmes, Box, Gray, Hall, White (F), Venable and White (G)

### AN ACT

To provide for a state income tax refund check-off designation for the support of programs for the aging in Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The legislature hereby declares that nearly all aging citizens of Alabama have need of special services and that it is in the public interest to preserve, protect, perpetuate, and enhance the abilities of such aging citizens of this state to remain independent through preservation of a satisfactory environment and appropriate supportive assistance. The legislature specifically declares that such aging citizens are under the jurisdiction of the commission on the aging of the state of Alabama, and that it is in the best interest of the citizens of Alabama to provide an additional means by which the management of such environments and supportive assistance may be financed through a voluntary check-off designation on state income tax return forms. The intent of the legislature is that this check-off program shall be supplemental to any funding, and in no way is intended to take the place of any funding, that would otherwise be appropriated for this purpose.

**Section 2.** (a) Each Alabama state individual income tax return form for the 1984 tax year and each year thereafter shall contain a designation as follows:

### ALABAMA AGING PROGRAM

Check (     ) if you wish to designate \$1.00, \$5.00, \$10.00 or more of your state income tax refund for this program.

If joint return, check (     ) if spouse wishes to designate \$1.00, \$5.00, \$10.00 or more.

(b) Each individual taxpayer required to file a state income tax return pursuant to Title 40, Chapter 18 of the Code of Alabama 1975, desiring to contribute to the Alabama aging program may designate, by placing an "X" in the appropriate box on the state income tax form, that such contribution shall be credited to said program.

**Section 3.** The department of revenue shall determine annually the total amount designated pursuant to section 2 of this act for the Alabama aging program and shall deposit such amount, less costs of administration not to exceed ten percent of revenue produced, in the state treasury to the credit of the Alabama Commission on Aging to be used exclusively for purposes of preserving, protecting, perpetuating and enhancing the abilities of the aging citizens in this state to remain independent.

**Section 4.** The commissioner of the department of revenue and the executive director of the commission on the aging are hereby authorized to prescribe and implement such forms, rules and regulations as shall be necessary to carry out the intent of this act with the approval of the Alabama Commission on Aging.

**Section 5.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 7.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 8, 1984

Time: 2:45 P.M.



Act No. 84-248

H. 454—Rep. Johnson (Roy)

## AN ACT

To amend § 40-23-7, Code of Alabama 1975, so as to revise the payment schedule to require that payers of large State sales tax liabilities will pay on an estimate basis during the period in which the tax liability accrues and to provide for distribution of the revenues.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-23-7, Code of Alabama 1975, is hereby amended as follows:

“The taxes levied under the provisions of this division, except as otherwise provided, shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrues.

On or before the twentieth of each month, every person on whom the taxes levied by this division are imposed shall render to the department of revenue, on a form prescribed by the department, a true and correct statement showing the gross sales, the gross proceeds of sales or gross receipts of his business, as the case may be, for the next preceding month; the amount of gross proceeds or gross receipts which are not subject to the tax, or are not to be used as a measurement of the taxes due by such person, and the nature thereof; together with such other information as the department may demand and require. At the time of making such monthly report such person shall compute the taxes due and shall pay to the department of revenue the amount of taxes shown to be due.

Any taxpayer liable for taxes under the provisions of this division whose average monthly state sales tax liability was \$1,000.00 or greater during the preceding calendar year shall make estimated payments to the department of revenue on or before the 20th day of the month in which the liability occurs as follows:

(a) The amount of the first estimated payment shall be sixty-six and two-thirds percent (66⅔ %) of the taxpayer's actual tax liability for the month of October 1983; thereafter the amounts of the payment shall be the lesser of sixty-six and two-thirds percent (66⅔ %) of the taxpayer's actual tax liability for the same calendar month of the preceding year or sixty-six and two-thirds percent (66⅔ %) of the current month's estimated liability.

(b) Any outstanding credit or deficit arising from the taxpayer's overpayment or underpayment of his final liability shall be applied to either increase or reduce, as the case may be, that month's final tax liability which shall be reported and paid not later

than the twentieth of the month next succeeding the month in which the tax accrues.

(c) The revenues derived from the first month of receipts of the estimated payments made under the provisions of this section shall be deposited to the credit of the State General Fund and for all succeeding months the revenues shall be deposited in accordance with § 40-23-35, Code of Alabama 1975.

(d) The provisions of this section shall not apply to the provisions of §§ 11-51-180, 11-51-200, and 40-12-4, Code of Alabama 1975.

When the total tax for which any person liable under this division does not exceed \$10.00 for any month, a quarterly return and remittance in lieu of the monthly returns may be made on or before the twentieth day of the months next succeeding the end of the quarter for which the tax is due when specially authorized by the department of revenue, and under such rules and regulations as may be prescribed.

The department of revenue, for good cause, may extend the time for making any return required under the provisions of this division, but the time for filing any such return shall not be extended for a period greater than 30 days from the date such return is due to be made."

**Section 2.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration does not affect the part which remains.

**Section 3.** This Act shall become effective on October 1, 1984.

Approved May 8, 1984

Time: 4:55 P.M.

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Act No. 84-249

H. 598—Rep. Johnson (Roy)

### AN ACT

To provide that the department of economic and community affairs shall be the administrative state agency for contracts for sales of certain state property heretofore administered by the finance department; to provide for orderly transfer of certain properties and funds from the finance department to the department of economic and community affairs; to authorize the department of economic and community affairs to prescribe procedures, rules, and regulations for the administration of such contracts; to provide for collection of certain administrative fees associated with such contracts; to provide that said department shall be designated as the state agency for distribution of federally donated surplus property; to prescribe penalties for viola-

tions of this act; to provide for certain personnel for the department of economic and community affairs, and to specifically repeal Article 5, Chapter 16, Title 41, of the Code of Alabama 1975.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** (a) The director of the department of economic and community affairs shall be responsible for the distribution, transfer, or disposal of all surplus personal property owned by the state and all right, title, interest, and equity in said property shall be transferred to said department for such purpose. The director may delegate to the chief of the surplus property division such supervision and control of the distribution or disposal of the aforementioned state owned surplus personal property.

(b) The meaning of certain words as used in this act are as follows:

(1) Division—shall mean surplus property division of the department of economic and community affairs.

(2) Surplus Property—shall mean that property declared by the personal property management coordinator of each state department, bureau, board, commission or agency to be surplus and so designated in writing to the chief of the division. All real property owned by any state department, bureau, board, commission, agency or institution, and any subdivision thereof; including, but not limited to, real property owned by any state college, university, two year college, technical school, or other postsecondary institution of higher learning shall be handled in the manner provided in Title 41, Chapter 4, Section 3, Code of Alabama 1975, or such other provisions of law as may be appropriate but in no circumstance shall any law regarding real property acquired, owned or disposed of by the state or any subdivision thereof be amended, substituted or in other manner altered by this act.

(3) Eligible Agency—shall mean any city, county, board of education, volunteer fire department, civil defense, agency or state department, board, bureau, commission or agency that is not found to be in violation of division rules and regulations during the 12 months immediately preceding the intended purchase.

(4) Coordinator—shall mean that officer or employee who shall be designated by the head of each department, board, bureau, commission, institution, corporation or agency of the state, in writing, to the division, to be the personal property management coordinator.

(c) The coordinator shall report to the surplus property division of the department of economic and community affairs any personal property declared surplus by his department, board, bureau,

commission, institution, corporation, or agency and deliver said property to any place designated by the division to be the proper place for such delivery.

(d) The division shall be authorized to promulgate such administrative rules and regulations as deemed necessary including, but not limited to: (1) promotion of surplus property; (2) shipment of surplus property; (3) storage of surplus property; (4) length of retention of surplus property; (5) public auction of surplus property; (6) such other rules and regulations as, from time to time, may be determined to be necessary.

(e) The division shall have authority to sell surplus property at fair market value, as established by the division and set out in its published rules, to incorporated cities, counties, volunteer fire departments, boards of education, civil defense agencies and state departments, boards, bureaus, commissions, or agencies. Payment for purchases by any of the above mentioned entities shall be made within 72 hours after such purchase. If payment is not made within 72 hours after a purchase, then such purchase shall be declared void and the property may be sold to another purchaser.

Provided, however, the governing body of any municipality with a population of less than 5,000 shall be given preference on the disposal of all surplus motor vehicles owned by the State of Alabama except those motor vehicles transferred to other state agencies.

Said municipalities shall notify the division, in writing, of type motor vehicle needed. A list shall be maintained by the division of such needs on a first come, first served basis and will be used to notify the municipalities when needed vehicles become available. Any municipality so notified shall have 7 work days in which to reply to the notice and accept or refuse the available vehicle.

**Section 2.** (a) Surplus property shall be made available at such times and places as determined to be appropriate by the division for inspection and acquisition by those agencies determined to be eligible for such acquisition under criteria developed and published by the division.

(b) The division shall periodically publish a list of all surplus property held by it at the time of such publication.

(c) The published list shall be made available to all state departments, boards, bureaus, commissions, institutions, corporations, or agencies.

(d) The published list shall also be made available to all eligible counties, cities, boards of education, civil defense agencies, volunteer fire departments.

(e) The division will determine the manner in which the list of surplus personal property shall be published.

(f) The division shall not be authorized to handle or dispose of any regulated hazardous materials.

**Section 3.** (a) The division shall be authorized to collect fees for transfer, handling, shipping, classification, warehousing, bidding, destruction, scrapping, or other disposal of property and such other fees as may be deemed appropriate in order to insure the continued efficient operation of the surplus property function of the department.

(b) The division shall establish two accounts within the state treasury for the operation of the surplus property function as follows: (1) The first account shall be known as the federal surplus property account into which all moneys received from the distribution of federally donated surplus property shall be deposited; (2) The second account shall be known as the state surplus property account into which all moneys received from the distribution of state owned surplus property and any funds appropriated from the state general fund for the operation of the surplus property function shall be deposited.

(c) Any moneys deposited into either of the aforementioned accounts may be expended from time to time by the department for operation of the surplus property function including, but not limited to, repairs, salaries, rent, travel, acquisition of exchange and surplus property, and all other necessary operating expenditures providing, however, that on September 30 any unencumbered moneys remaining in the state surplus property account, up to an amount equal to the operating expenses of the quarter ending on September 30, shall be set aside for use during the quarter beginning October 1 for the purposes heretofore stated and any remainder shall revert to the state general fund. The federal surplus property account shall be a perpetual account, and funds therein shall not revert to the state general fund.

**Section 4.** The following provisions of this section shall apply only to that property that has been held by the division for a period of not less than 60 days from the date said property is first published in the list of surplus property, as set out in Section 2(b), and not purchased by any agency as set out in Section 1(e) of this act.

(a) All contracts made by, or on behalf of, the state of Alabama, or any department, board, bureau, commission, institution, corporation, or agency thereof, of whatever nature for the sale or disposal of tangible personal property owned by the state of Alabama, other than (1) alcoholic beverages, (2) products of the Ala-

bama Institute for Deaf and Blind, (3) barter arrangements of the state prison system, (4) books, (5) school supplies, (6) food, (7) property used in vocational projects, (8) livestock, (9) property owned by any state college or university not under the control of the board of education of the state of Alabama, which has trade-in value which may be credited against the cost of replacement property purchased in accordance with the Alabama competitive bid laws, and (10) types of property, the disposal of which is otherwise provided or by law or which, by nature, are incapable of sale by auction or bid, shall be let by free and open competitive public auction or sealed bids.

(b) Every proposal to make a sale covered by this section shall be advertised for at least two weeks in advance of the date fixed for receiving bids. Such advertisement shall appear at least once a week for two consecutive weeks in a newspaper of general circulation in the county where the sale is to be made, and a copy of such proposal shall simultaneously be posted on a readily accessible public bulletin board at the main office of the chief of the division. Advertisements for bids shall state the item or items to be sold, by class and description, where the property is located and the dates, time, and place the property may be inspected. The advertisements shall further state the date, time, and place of auction or opening of sealed bids, and no bid shall be received at any time after the time advertised.

(c) The bids shall be publicly taken or opened, in case of sealed bids, by the chief of the division and all bidders shall be entitled to be present in person or by representative.

(d) The award of the contract shall be made to the successful bidder within 72 hours after taking of the bids.

(e) The bid of the successful bidder so marked, as well as the bids of the unsuccessful bidders in the case of sealed bids, shall be placed on file open to public inspection and shall become matters of public record.

(f) If a successful bidder shall fail to accept award of a contract, then he shall be prohibited from bidding at any sale held by the division for a period of 12 months following such failure to accept.

(g) The chief of the division may sell all items by lot or by individual item, whichever method, in his opinion, will bring the highest return for the items so advertised.

(h) In the event all bids received are less than the estimated market value of the property, the chief of the division shall reject all bids and readvertise and rebid.

(i) Nothing herein shall be construed to prevent the chief of

the division from contracting with the highest bidder for any type of property to sell to that bidder all of that type of property at his bid price during that fiscal year providing such possible arrangement was included in the initial request for bids.

(j) All property advertised under the provisions of this section shall be available for inspection during the normal state office hours and at whatever place advertised for at least 48 hours prior to sale.

(k) All property sold under the provisions of this section shall be paid for by the purchaser or his representative by cashier's check, bank draft, certified check, U.S. currency, or notarized bank letter stating that the holder may purchase surplus property and also stating a maximum amount, at the time of acceptance of bid and award of contract, and said removal shall be not later than seven days after the awarding of the contract; provided, however, that the time limit of seven days shall not be applicable to sales of standing timber.

(l) All proceeds from sales made under the provisions of this section shall be paid into the state treasury or other legally authorized depository to be credited to the proper fund as set out in Section 3(b) prior to final distribution as set out in Section 4(p).

(m) No officer or employee of the state of Alabama or any of its departments, boards, bureaus, commissions, institutions, corporations, or agencies shall act as agent for any bidder; provided, however, that such officers or employees shall not be excluded from bidding on or purchasing state property at public sale or sealed bid.

(n) Any sale of tangible personal property or standing timber of the state made in violation of the terms of this act shall be null and void, and the person or persons responsible for the violation shall be subject to liquidated damages of not less than \$1,000.00 nor more than \$10,000.00, which may be recovered for the state of Alabama by the attorney general by civil action in the circuit court of Montgomery County. Any moneys recovered by the attorney general under this section shall be equally divided between the office of the attorney general and the state general fund.

(o) The provisions of this act shall not apply to the sale of diseased, storm or fire-damaged timber, nor shall it apply to timber cut on rights-of-way or easements. Such timber may be sold or otherwise disposed of in such manner as the commissioner of conservation and natural resources deems in the best interest of the state; provided, that no sale of diseased timber shall be made until the state forester shall certify that such timber is diseased, and such certification shall be in written form and filed with the director of finance.

(p) Whenever any surplus property that was purchased with

either earmarked state funds or restricted federal funds is sold by the division, the proceeds from such sale, less administrative expenses, shall be deposited to the credit of the specific fund of the state department, commission, or agency from which the original purchase of such property was made within 30 days from receipt of said proceeds. If the source of the original purchase of the property was a general fund appropriation, then said sale proceeds, less any administrative fee, as set out in the rules authorized to be promulgated by the division, shall be credited to the account from which it was purchased. In no event shall the said administrative fee, as mentioned above, exceed twenty-five percent (25%) of the gross sale price.

(q) All educational and eleemosynary institutions, not exempted in Section 4(a), governed by a board of trustees or other similar governing body, the department of mental health, and state docks department shall be governed by the provisions of this act.

(r) Violation of any of the provisions of this act shall constitute a Class B misdemeanor punishable as prescribed by law.

**Section 5.** All personnel, including those on personal service contracts, working within the surplus property division of the department of economic and community affairs at the passage of this bill shall, by virtue of this section, be considered to meet the requirements of the department in terms of education, training, and experience and shall automatically be placed within the state merit system with permanent status with all the rights and privileges thereof and shall enjoy the same employment and retirement privileges and rights as the legislature may determine from time to time or as may be otherwise determined by law or administrative rule or regulation according to the rules and regulations of the personnel department of the state of Alabama. All new future employees of the surplus property division of the department of economic and community affairs shall be required to meet the requirements of the state merit system.

All present employees of the surplus property division of the department of economic and community affairs shall remain in their respective positions and continue to enjoy employment conditions including, but not limited to, salary range and advancement at a level no less than those enjoyed prior to the enactment of this bill. However, nothing herein shall be construed to prevent or preclude the removal of an employee for cause in the manner provided by law.

**Section 6.** All appropriations heretofore made to the finance department for administering the disposal of surplus property under Article 5, Chapter 16, of Title 41, of the Code of Alabama 1975, shall



be transferred to the surplus property division of the department of economic and community affairs, along with all personnel, records, accounts, equipment, and such other necessary things connected with the surplus property operation as determined by the finance director.

**Section 7.** The temporary state plan of operation for the state agency for federal property assistance which was approved by the governor of Alabama on July 14, 1977, and accepted by the general services administration on September 14, 1977, shall become the permanent state plan of operation; provided, however, the division shall have authority, with approval of the governor, to revise said plan from time to time in accordance with regulations as established by the general services administration pursuant to Public Law 94-519 which governs the distribution of federal surplus property.

**Section 8.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 9.** All laws or parts of laws in conflict herewith are hereby repealed and the provisions of Article 5, Chapter 16, Title 41, of the Code of Alabama 1975, are hereby specifically repealed.

**Section 10.** This act shall become effective October 1, 1984.

Approved May 8, 1984

Time: 4:55 P.M.

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Act No. 84-250

H. 341—Rep. Starr

### AN ACT

To amend Sections 34-33-1, 34-33-2, 34-33-3, 34-33-4, 34-33-6, 34-33-7, and 34-33-9 of the Code of Alabama 1975 which relate to the design, installation and maintenance of fire protection sprinkler systems so as to refine the definition of "Fire Protection Sprinkler Contractor and Fire Protection Sprinkler System"; to allow persons designated by the fire marshal to prepare and administer competency tests; to clarify application of this Act to certain owners of fire protection sprinkler systems; to allow for reciprocity among states for recognized permits; to allow a fire protection sprinkler contractor to continue in business for a limited period if the contractor's certificate holder dies or leaves the employment of such contractor; to specify the time for filing renewal applications; and to provide that if plans for a fire protection sprinkler system are required to be submitted to and approved by any municipality, county or the state such plans must bear the permit number of the certified fire protection sprinkler contractor.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 34-33-1, 34-33-2, 34-33-3, 34-33-4, 34-33-

6, 34-33-7, and 34-33-9 of the Code of Alabama 1975, are hereby amended as follows:

**Section 34-33-1. Definitions.**

For purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed in this section.

(2) **FIRE PROTECTION SPRINKLER CONTRACTOR.** An individual, partnership, corporation, association, or joint venture engaged in the business of installation, repair, alteration, addition, maintenance, or inspection of fire protection sprinkler systems. This does not include local building officials, fire inspectors, or insurance inspectors when acting in their official capacity.

(2) **CERTIFIED FIRE PROTECTION SPRINKLER CONTRACTOR.** A fire protection sprinkler contractor who has qualified and received a permit from the state fire marshal.

(3) **CERTIFICATE HOLDER.** An individual who has satisfactorily met minimum experience requirements and completed and passed a competency test administered by the state fire marshal. The individual must be an owner, partner, officer, or in a management position of the fire protection sprinkler contractor.

(4) **STATE FIRE MARSHALL'S PERMIT.** The form issued by the state fire marshal to a fire protection sprinkler contractor upon application being approved, fee paid, and satisfactory testing of competency of an individual who is an owner, partner, officer, or in a management position of the fire protection sprinkler contractor. The permit shall be issued in the name of the fire protection sprinkler contractor, with the name of the certificate holder noted thereon.

(5) **FIRE PROTECTION SPRINKLER SYSTEM.** A system of overhead piping designed in accordance with fire protection engineering standards. The system is supplied from a reliable, constant and sufficient water supply, such as a gravity tank, fire pump, reservoir or pressure tank, and/or connection by underground piping to a city main. The portion of the sprinkler system above ground is considered the fire protection sprinkler system for purposes of this chapter, and is a network of specially sized or hydraulically designed piping installed in a building, structure, or area, generally overhead, and to which sprinklers are connected in a systematic pattern. The system includes a controlling valve and device for actuating an alarm when the system is in operation. The system is usually activated by heat from a fire and discharges water over the fire area. Fire protection sprinkler systems shall include the following types: wet-pipe systems, dry-pipe systems, pre-action systems, deluge systems, combined dry-pipe and pre-action systems, antifreeze systems,

and circulating closed loop systems, all as defined in National Fire Protection Association Pamphlet 13, Standard for the Installation of Sprinkler Systems, latest edition, or National Fire Protection Association Pamphlet 13D, Standard for the Installation of Sprinkler Systems in One and Two Family Dwellings and Mobile Homes, latest edition.

Section 34-33-2. Administration of chapter vested in state fire marshal.

The administration of this chapter is vested in the state fire marshal who shall have the power to set or make changes in the amount of the fee charged as necessary for the administration and enforcement of this chapter. The state fire marshal may, at his discretion, have the competency test, provided for in section 34-33-4, prepared and administered by others.

Section 34-33-3. Installation, repair, etc., of fire protection sprinkler systems—Conformity with chapter required.

It shall be unlawful for any individual, partnership, corporation, association, or joint venture to engage in the business of installing, repair, alteration, addition, maintenance, or inspection of a fire protection sprinkler system in this state except in conformity with the provisions of this chapter. Nothing in this chapter, however, shall be construed to apply to fire protection sprinkler system owners who employ registered professional fire protection engineers, or individuals who have satisfactorily met the minimum experience requirements of Section 34-33-4, or completed and passed a competency test administered by the state fire marshal, and skilled workers who regularly and routinely design, install, repair, alter, add to, maintain, and inspect sprinkler systems on and within the premises of their employer; provided such systems are for the owners' use only.

Section 34-33-4. Same—Application for state fire marshal's permit; contents; status of applicant; application fee; competency test; waiver of competency test; reciprocity.

Any individual, partnership, corporation, association, or joint venture desiring to engage in the business of installation, repair, alteration, addition, maintenance, or inspection of fire protection sprinkler systems shall submit to the state fire marshal on standard forms provided by the state fire marshal an application, complete with all information required, on the applicant who is at present an owner, partner, officer, or in a management position of the fire protection sprinkler contractor making the application. The applicant shall include a fee of \$100.00 when making the application. A competency test shall be scheduled by the state fire marshal for the applicant. If the applicant shall provide sworn affidavits from three

professional engineers currently registered in the state of Alabama, to the effect that the applicant has satisfactorily supervised the sale, design and installation of at least one fire protection sprinkler system of more than 200 sprinklers in size for each (complete with name, description and location of each), the competency test may be waived, provided the application is submitted prior to August 31, 1982. This chapter shall not prevent the state fire marshal, at his discretion, from issuing, upon receipt of the application and fee, a state fire marshal's permit to a fire protection sprinkler contractor who produces evidence of having passed an approved competency test, or of having a current state permit from another state, if such state shall have entered into an agreement of reciprocity with the state of Alabama.

Section 34-33-6. Restrictions and limitations upon permit holder.

In no case shall a certificate holder be allowed to obtain a state fire marshal's permit for more than one fire protection sprinkler contractor at a time. If the certificate holder should leave the employment of the fire protection sprinkler contractor, he must notify the state fire marshal within 30 days. The certificate holder shall not be eligible to obtain a state fire marshal's permit for more than one other fire protection sprinkler contractor for a period of 12 months thereafter. If the certificate holder should leave the employment of the fire protection sprinkler contractor, or die, the contractor shall have nine months to submit a new application on another certificate holder who is at present an owner, partner, officer, or in a management position of the fire protection sprinkler contractor. If such application is not received and a new permit issued within the allotted time, the state fire marshal shall revoke the permit of the fire protection sprinkler contractor.

Section 34-33-7. Expiration of permit; renewal procedure.

The state fire marshal's permit shall expire annually at midnight on September 30. At least 30 days prior, the fire protection sprinkler contractor must submit a renewal application. A renewal fee must be submitted with the application. Failure to renew the permit prior to the expiration shall cause the permit to be null and void as of the expiration date, and it shall be unlawful under this chapter for any individual, partnership, corporation, association, or joint venture to engage in the business of installing, repairing, altering, adding, maintaining, or inspecting a fire protection sprinkler system without a valid state fire marshal's permit. The permit may be reinstated by making application as before, and payment of the fee; however, until such time as a new permit is issued, it shall be unlawful for the fire protection sprinkler contractor to engage in in-

stalling, repairing, altering, adding, maintaining, or inspecting fire protection sprinkler systems.

Section 34-33-9. Chapter imposes no limitation on power of municipality, etc., to regulate work of contractors.

Nothing in this chapter limits the power of a municipality, county, or the state to regulate the quality and character of work performed by contractors, through a system of permits, fees, and inspections, which are designed to assure compliance with, and aid in the implementation of, state and local building laws or to enforce other local laws for the protection of the public health and safety. Nothing in this chapter limits the power of a municipality, county, or the state to adopt any system of permits requiring submission to and approval by the municipality, county, or the state, of plans and specifications for work to be performed by contractors before commencement of the work. If plans for a fire protection sprinkler system are required to be submitted to and approved by any municipality, county, or the state (or any departments or agencies thereof), the plans must bear the permit number of the certified fire protection sprinkler contractor or proof that the person, firm or corporation that designed such fire protection sprinkler system is an exempt owner under Section 34-33-3 hereof. The official authorized to issue building or other related permits shall ascertain that the fire protection sprinkler contractor is duly certified by requiring evidence of a valid state fire marshall's permit.

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-251

H. 208—Reps. Mitchell, Zoghby,  
Johnson (Roy), Holley,  
Bowling, Newman,  
Albright, Lauderdale,  
Hall, Hettinger,  
Nicholson, Poole,

Carter, Carothers,  
White (F)

## AN ACT

To amend Section 16-8-26, Code of Alabama, 1975, which provides for personal leave for teachers, so as to provide further for said leave, and to provide for creditable service for purposes of service retirement for unused accrued sick leave.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 16-8-26, Code of Alabama, 1975, is hereby amended to read as follows:

“Section 16-8-26.

“Any county or city board of education or the Alabama Institute of Deaf and Blind shall be authorized to grant to any teacher within its school system personal leave of up to five days annually noncumulative, during the time schools are in session. The board shall enact policies providing for uniform administration of personal leave, and shall determine whether the leave is to be with part pay, full pay or without pay, except that any approved leave for which the state education budget includes funding shall be with pay. It is further provided that personal leave shall be reimbursed to the teacher at the end of the school year at the same daily rate as is paid to substitute teachers for each day of personal leave not taken by a teacher. The number of unused personal leave days subject to reimbursement shall be limited to the number of personal leave days for which funding is provided in the annual Special Educational Trust Fund budget. Personal leave funds provided by the state shall be distributed to local boards of education by the state superintendent of education according to a plan developed by him. No teacher, as a condition to receive personal leave, shall be required to divulge his/her reasons for requesting such leave.”

**Section 2.** Teachers, as defined in § 16-25-1(3) or § 16-25-5 (d), Code of Alabama, 1975, as amended may use their accrued sick leave, up to a maximum number of accrued sick leave days allowed by law, to be included as membership service in determining the total years of creditable service in the Teachers' Retirement System of Alabama; provided, any teacher not authorized by law to receive sick leave may use any accrued sick leave provided by his or her employer, provided, that employer is lawfully empowered to grant such leave, which cannot be without pay; and provided further that the amount of such accrued leave shall not exceed the maximum number of accrued sick leave days allowed by law for a classroom teacher employed by a city or county board of education. Unused sick leave may be converted to membership service only for the purpose of applying for service retirement. Said conversion shall not ap-

ply to eligibility for deferred retirement; provided that a person eligible for service retirement, if also eligible for disability retirement, may elect disability retirement and also receive credit for accumulated sick leave pursuant to this section. This section shall not be applicable to any person who is eligible to receive partial payment for accrued sick leave pursuant to § 36-26-36; supra.

**Section 3.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 4.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** Except for Section 1, the provisions of this Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law. The provisions of Section 1 of this Act shall be effective with the beginning of the fiscal year ending September 30, 1985, following passage of the Act and approval by the Governor or upon its otherwise becoming a law.

Approved May 8, 1984

Time: 3:40 P.M.

Act No. 84-252

H. 554—Reps. Smith, Richardson,  
Clark (J), Starr

### AN ACT

To allow the Governor, the Director of Finance and the Commissioner of Agriculture and Industries to organize a public corporation for the purpose of issuing bonds or other debt securities to be used for constructing and maintaining an agricultural market facility and to renovate the existing Garrett Coliseum and other buildings on the Coliseum grounds; to provide procedures for the organization of said corporation; to set out powers of the corporation; to authorize the issuance of up to \$6,000,000 in securities, which shall be special obligations of the corporation, payable from specified sources and which shall not be obligations or debts of any kind of the State; to provide that not more than 60% of the proceeds of sale of such securities may be expended for the construction of an agricultural market facility and not more than 40% of such proceeds may be expended for renovation of the Coliseum and other buildings on the Coliseum grounds; to provide for methods of executing and selling such securities and for paying the principal of and any premium and interest on such securities; to provide that the monies realized from leases paid by the public for use of the market, after expenses incurred in operating the market are deducted, may be pledged and used to defray the cost of 60% of the securities; to provide that the monies obtained from the public for rents and other receipts realized from use of the Coliseum, after expenses incurred in operating the Coliseum are deducted, may be pledged and used to defray the cost of 40% of the securities; and to provide that, if all of the above funds are insufficient, then to pledge monies received from fees, licenses, permits, fines and penalties collected by the Department of Agriculture and Industries and paid into the agricultural fund, for the payment of the principal of

and any premium and interest on the securities; to provide that any monies received from the sale of the securities shall only be used to construct, acquire and equip an agricultural market facility, and for renovation of the Coliseum and other buildings located on the Coliseum grounds; to provide that the State Board of Agriculture and Industries shall construct the market under the guidance of the State Building Commission; to provide that the Agricultural Center Board shall be responsible for renovation of the Coliseum and other buildings on the Coliseum grounds; to provide for the refunding of the securities and procedures for the deposit, investment and disposition of proceeds of sale of the securities; to provide for limitation of any action to contest the validity of the securities; to provide that the securities are legal investments and that the securities of the corporation and any premium and interest thereon, the property and income of the corporation, and any public filings by it are exempt from taxation; and to provide for dissolution of the corporation.

*Be It Enacted by the Legislature of Alabama:*

### **Section 1. Definitions.**

As used in this Act, the following words shall have the following meanings unless the context clearly requires otherwise:

- (1) "Agricultural Center Board" shall mean the board of that name established pursuant to Article 2, Chapter 6, Title 2 of the Code of Alabama 1975.
- (2) "Agricultural Fund" shall mean the fund of that name created and administered pursuant to Article 1, Chapter 9, Title 2 of the Code of Alabama 1975.
- (3) "Board of Agriculture and Industries" shall mean the Alabama Board of Agriculture and Industries created pursuant to Section 2-3-1 of the Code of Alabama 1975.
- (4) "Building Commission" shall mean the building commission created under Article 6, Chapter 9, Title 41 of the Code of Alabama 1975, and any successor agency thereto.
- (5) "Coliseum" shall mean the existing Garrett Coliseum and the grounds and other buildings and structures associated therewith, all owned by the Agricultural Center Board and located in the City of Montgomery, Alabama.
- (6) "Corporation" shall mean the public corporation authorized to be created by this Act.
- (7) "Eligible Investments" shall mean (i) any time deposit with, or any certificate of deposit issued by, any bank savings bank or savings and loan association which is organized under the laws of the United States of America that may succeed to the functions of such corporation; (ii) any debt securities that are direct, general obligations of the United States of America; (iii) any debt securities payment of the principal of and interest on which is unconditionally guaranteed by the United States of America; (iv) any debt securities (including participation certificates) that are direct, general obliga-



tions of any of the following agencies of the United States of America: the Export-Import Bank of the United States, the Federal Farm Credit Bank, the Federal Land Banks, the Federal Immediate Credit Banks, the Banks for Cooperatives, the Federal Home Loan Banks (including any joint obligations of any two or more of the foregoing agencies), the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, the Federal National Mortgage Association, the Farmers Home Administration, or any other agency or instrumentality of the United States of America; (v) any repurchase obligations of any bank savings bank or savings and loan association which is a member of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation (or any department, agency or instrumentality of the United States of America that shall succeed to the functions of such federal corporation), which repurchase obligations are at least 100% secured by any one or more classes of Eligible Investments described in (i) through (iv), inclusive, above; (vi) any security or interest therein, whether secured or unsecured, in which an insurance company or a savings and loan association organized under the laws of the State may legally invest its own moneys at the time of investment therein by the corporation; (vii) shares of any money market fund registered and regulated under the federal Investment Company Act of 1940, as amended, as a no-load, open-end management investment company, the portfolio assets of which consist solely of cash and Eligible Investments and repurchase agreements fully secured by any one or more classes of Eligible Investments; and (viii) any debt obligation, debt instrument or deposit obligation in which trustees are legally permitted to invest under the laws of the State at the time of investment therein by the corporation.

(8) "market facility" shall mean any facility for the inspection, grading, standardization, classification, refrigeration, dehydration, canning, packing, processing, cold storage and marketing of agricultural and kindred products permitted to be acquired and constructed by the Board of Agriculture and Industries pursuant to Section 2-3-20 of the Code of Alabama 1975.

(9) "securities," when used with reference to debt instruments to be issued by the corporation, shall mean and include notes, bonds and other forms of indebtedness.

(10) "State" shall mean the State of Alabama.

## **Section 2. Declaration of purpose and legislative findings.**

The Legislature has found and determined and does hereby declare that in certain areas of this State, there are inadequate market facilities available to Alabama farmers for the efficient handling and sale of agricultural and agriculture related products.

The Legislature has also found and determined, and does hereby declare that the Coliseum is in dire need of repair and is in such poor condition as to limit its use by the public. It is the intent of the Legislature, by the passage of this Act, to authorize the incorporation of a public corporation as an instrumentality of the State for the purpose of borrowing funds to finance the construction of an adequate market facility and the renovation of the Coliseum and to vest said corporation with all powers, rights, privileges and titles that may be necessary to accomplish said purposes. This Act shall be liberally construed in conformity with said intent.

### **Section 3. Authority and procedure for incorporation.**

The Governor, the Commissioner of Agriculture and Industries and the Director of Finance may incorporate and organize a public corporation with the powers and authority provided in this Act by proceeding according to the provisions of this Act. They are authorized to present to the Secretary of State an application for the organization of a corporation which shall be signed by them and shall set forth:

(a) The names, official designations and official residences of the applicants, together with a certified copy of each of the commissions evidencing their respective rights to office;

(b) The date or dates on which they were respectively inducted into office and the terms of their respective offices;

(c) The name of the proposed corporation (which shall be Alabama Agricultural Markets and Coliseum Corporation, if such name is available for use by the corporation, but if not available, then some other name that is available shall be set forth in the application);

(d) The location of the principal office of the proposed corporation, which shall be within the State of Alabama; and

(e) Such other provisions as the applicants may choose to insert and as shall not be inconsistent with this Act or with the laws of the State. The application shall be subscribed and sworn to by each of the applicants before an officer authorized by the law of the State to administer oaths.

The Secretary of State shall examine the application, and if he finds that the name proposed in the application is not identical with that of a person or other corporation in the State or so nearly similar thereto as to lead to confusion and uncertainty, he shall receive the application and file it in an appropriate book or record in his office.

### **Section 4. Certificate of incorporation.**

When the application has been made, filed and recorded as provided in this Act, the applicants shall constitute a corporation under the name proposed in the application and with the powers set forth in this Act. The Secretary of State shall make and issue to the applicants a certificate of incorporation, under the great seal of the State, reciting the fact of such incorporation and shall record the same with the application. There shall be no fees paid to the Secretary of State for any work in connection with the incorporation or dissolution of the corporation.

### **Section 5. Board of Directors; officers; record of proceedings.**

The powers of the corporation shall be vested in a board of directors consisting of the persons at any time holding the offices of Governor, Commissioner of Agriculture and Industries and Director of Finance. Any two members of the board of directors shall constitute a quorum for the transaction of business. No vacancy in the membership of the board of directors or the voluntary disqualification or abstention of any member thereof shall impair the right of a quorum of the board of directors to act. The corporation shall have a president, a vice-president and a secretary, who shall be elected by the board of directors from the members of the board, and a treasurer, who shall be the State Treasurer of the State. If it so desires, the board of directors may appoint an assistant secretary who need not be a member of the board of directors. The offices of the corporation shall hold their respective offices for such terms as the board of directors shall determine, subject to the requirement that the president, vice-president and secretary shall at all times be members of the board of directors. No officer or director of the corporation shall draw any salary for any services he may render or any duty he may perform as a director or officer of the corporation; provided, however, that directors and officers of the corporation may be reimbursed for their actual expenses properly incurred in the performance of their duties as directors or officers of the corporation. All proceedings of the board of directors shall be reduced to writing by the secretary of the corporation and recorded in a well-bound book. Copies of such proceedings, when certified by the secretary of the corporation under its seal, shall be received in all courts as evidence of the proceedings and other matters therein certified.

### **Section 6. Powers of corporation generally.**

The corporation shall have the following powers, together with all powers incidental thereto or necessary or convenient to the discharge thereof in corporate form:

(a) To have succession by its corporate name until dissolved as provided in this Act;

(b) To sue and be sued and to prosecute and defend civil actions in any court having jurisdiction of the subject matter and of the parties;

(c) To adopt and make use of a corporate seal and to alter the same at pleasure;

(d) To make and alter all needful bylaws, rules and regulations for the transaction of the corporation's business and the control of its property and affairs;

(e) To borrow money and, in evidence of such borrowing, to sell and issue its securities (whether or not bearing periodic interest) as herein provided for any corporate use or purpose;

(f) To pledge for the payment of the principal of, premium, if any, and interest on such securities, any funds or revenues from which said securities may be made payable as herein provided;

(g) To appoint, employ, discharge and contract with such employees, agents, independent contractors, trustees and depositories, attorneys, accountants, financial experts, underwriters, fiscal agents or other advisors as may in the judgment of the board of directors be necessary or desirable, and to fix and pay their compensation and expenses; and

(h) To make and enter into such contracts, agreements and other actions as may be necessary or desirable to accomplish any corporate purpose and to exercise any power necessary for the accomplishment of the purposes of the corporation or incidental to the powers expressly set out herein.

#### **Section 7. Issuance and sale of securities by corporation.**

(a) The corporation is authorized to issue and sell its interest-bearing or non-interest bearing securities, in one or more series, not exceeding \$6,000,000, in aggregate principal amount, to provide funds to be used by the Board of Agriculture and Industries in the construction, acquisition and installation of a market facility and to be used by the Agricultural Center Board in the renovation of the Coliseum.

(b) The principal of, premium, if any, and interest on any securities or series of securities of the corporation the proceeds of which are devoted to the construction, acquisition and installation of the market facility shall be payable from and secured by a pledge of all rents, leases, charges or other revenues derived or realized from leases to the public of said market facility after deduction of costs of operation. The principal of, premium, if any, and interest on any securities or series of securities the proceeds of which are devoted to the renovation and repair of the Coliseum shall be payable

from and secured by a pledge of all rents, leases, or any other revenue derived or realized from the public from operation of the Coliseum, after deduction of costs of operation.

To the extent that the sources of revenue described above are insufficient to provide for the payment of the debts of the corporation, the principal of, premium, if any, and interest on the corporation's securities may be secured by a pledge of so much as is necessary of the fees, permit fees, license fees, fines and penalties imposed, charged and collected by the Department of Agriculture and Industries and paid into the Agricultural Fund. There is hereby appropriated and set aside in each fiscal year, solely out of the fees, permit fees, license fees, fines and penalties accruing to the Agricultural Fund such amount as, when added to the revenues from operation of the market facility and the Coliseum, net of costs of operation, shall be sufficient to pay the principal of, premium, if any, and interest on the corporation's securities coming due in said fiscal year. Moneys in the Agricultural Fund which consist of contributions by the federal government or any private agency, appropriations by the Legislature from the general fund, assessments collected for the promotion of agricultural industries and products as provided in Chapter 8 of Title 2 of the Code of Alabama 1975, or any other funds other than funds realized from fees, permits, licenses, fines and penalties, shall not be used or pledged for payment of debt service on the corporation's securities.

(c) Securities of the corporation may be authorized, issued and sold at any time and from time to time, may be in such form and denominations, may be of such tenor, shall be in registered form, may be payable in such installments and at such time or times not exceeding 20 years from their date, may be payable at such place or places, may be redeemable at such times and under such conditions and may bear interest at such rate or rates payable and evidenced in such manner or may be structured to bear no interest or to reflect compound interest, all as shall not be inconsistent with the provisions of this Act and as may be provided in the proceedings of the board of directors of the corporation whereunder said securities shall be authorized to be issued. Securities of the corporation may be sold at such price or prices and at such time or times as the board of directors of the corporation may consider advantageous, either at public or private sale and by negotiation or by competitive bid; provided, that securities may be sold in a private sale and negotiated terms only upon a finding by the president that a public sale of the securities is, under the circumstances existing at the time, either impractical or undesirable. Securities of the corporation sold by competitive bid must be sold, whether on sealed bids or at public auction, to the bidder whose bid reflects the lowest net interest cost

to the corporation for the securities being sold, computed from their date to their respective maturities; provided, that if no bid acceptable to the corporation is received, it may reject all bids. The corporation may fix the terms and conditions under which each sale of bonds may be held; provided, that such terms and conditions shall not conflict with any of the requirements of this Act. The corporation may allow or pay, from the proceeds of sale of its securities, all expenses, premiums, discounts, insurance premiums, letter of credit fees and commissions as the board of directors may deem necessary or advantageous in connection with the authorization, sale and issuance of its securities. All securities issued by the corporation and any interest coupons applicable thereto shall be construed to be negotiable instruments, despite the fact that they are payable solely from a specified source. All securities issued by the corporation shall be solely and exclusively limited obligations of the corporation, payable out of the sources provided in this Act, and shall not be obligations or debts of any kind of the State. All securities issued by the corporation shall contain a recital that they are issued pursuant to the provisions of this Act, which recital shall be conclusive evidence that the said securities have been duly authorized pursuant to the provisions of this Act.

#### **Section 8. Execution of securities.**

All securities of the corporation shall be signed by its president or vice-president, and the seal of the corporation shall be affixed thereto and attested by its secretary. The signatures of the president, vice-president and secretary may be facsimile signatures and a facsimile of the seal of the corporation may be imprinted on the securities if the board of directors, in its proceedings with respect to issuance of such securities, provides for manual authentication of such securities by a trustee or paying agent or by named individuals who are employees of the State and who are assigned to the Finance Department or State Treasurer's Office of the State. Delivery of securities so executed shall be valid; notwithstanding any changes in officers or in the seal of the corporation after the signing and sealing of such securities.

#### **Section 9. Use of proceeds from sale of securities.**

All proceeds derived from the sale of any securities of the corporation, other than refunding securities, shall be deposited in the State Treasury and carried in a special account or accounts, and may be withdrawn solely for the purposes and in the amounts set out below:

(a) No more than 60% of the said proceeds shall be used for the acquisition, construction and installation of a market facility by the Board of Agriculture and Industries. Withdrawals for such pur-

pose shall be upon requisition by or pursuant to authority of the Board of Agriculture and Industries addressed and presented to the State Comptroller and paid out by the warrant of the Comptroller upon the State Treasury, to be used only to pay the following:

(1) The cost of materials, supplies and labor used in the construction of the market facility;

(2) The cost of acquisition and installation of equipment for the market facility;

(3) The cost of acquiring and landscaping the site for the market facility and the cost of constructing and installing roads, walks, utilities and parking facilities;

(4) The fees and expenses incurred by the corporation in connection with the authorization, sale and issuance of the securities; and

(5) Interest on the securities for a reasonable period prior to completion of the market facility.

(b) No more than 40% of the said proceeds shall be used for the renovation of the Coliseum by the Agricultural Center Board. Withdrawals for such purpose shall be upon requisition by or pursuant to the authority of the Agricultural Center Board, addressed and presented to the State Comptroller, and paid out by the warrant of the Comptroller upon the State Treasurer, to be used only to pay the following:

(1) Costs incurred to renovate, repair or replace items in the Coliseum main building including, but not limited to, the roof, glass and roll type doors, rest rooms, including paraplegic requirements, the arena, floors of all types, offices, walls, ceilings, paint, curtains, wall louvers, arena lights, heating and cooling systems, hardware and sound systems;

(2) Costs incurred to renovate, repair or replace items in or on the cattle barns located on the Coliseum grounds, including, but not limited to, floors, roofs, walls, cattle stanchions, ceilings, insulation, paint and electrical and plumbing systems;

(3) Costs incurred to renovate, repair or replace items in or on the horse barns located on the Coliseum grounds, including but not limited to, roofs, floors, walls, paint, drainage around the barns and electrical and plumbing systems;

(4) Costs incurred to renovate, repair or replace items in or on the exhibit barns and other buildings located on the Coliseum grounds, including but not limited to, roofs, walls, floors, ceilings, paint and plumbing and electrical systems;

(5) Costs incurred to renovate and repair items in or on the outdoor horse arena located on the Coliseum grounds, including but not limited to, enlargement of the arena, drainage, construction of rest rooms, concession stands and sheds over the arena, electrical and plumbing systems and parking areas;

(6) Costs incurred to renovate, repair, replace or install fences, parking lot lights, parking lot surfaces and other items incidental to upkeep of the Coliseum grounds;

(7) The fees and expenses incurred by the corporation in connection with the authorization, sale and issuance of the securities; and

(8) Interest on the securities for a reasonable period prior to completion of the Coliseum renovation and construction.

(c) Any balance remaining in the said special account or accounts after completion of acquisition, construction, renovation and equipping of the market facility and the Coliseum, and after the payment of all costs and expenses of the corporation incurred in the issuance of its securities, shall be used for the payment or redemption of securities of the corporation and thereafter no additional securities shall be issued by the corporation except refunding securities as authorized in this Act.

#### **Section 10. Construction of market facility.**

The Board of Agriculture and Industries shall proceed with the acquisition, construction and equipping of the market facility as soon as may be practicable following the sale of the corporation's securities. Such acquisition, construction and equipping shall be done by the Board of Agriculture and Industries under the supervision of the Building Commission upon the award of a contract or contracts for each part of the work to the lowest responsible bidder after advertisement for and public opening of sealed bids; provided, that for the purpose of determining the lowest responsible bidder, the invitation for bids and bidding documents shall be so arranged that alternates from the base bid shall constitute cumulative deductions from the base bid in the event such alternates should be selected. All such contracts shall be lump sum contracts and shall be awarded and executed by the Board of Agriculture and Industries to the respective lowest bidders following determination by the Building Commission of the lowest bidders. Payment made under any such contracts shall be only upon the contractor's written, verified statements when approved by the Building Commission or its agent, in such amounts as the Building Commission may approve as having been then earned under such contracts. The Building Commission shall be reimbursed for all reasonable direct costs incurred by it in



connection with such acquisition, construction and equipping, including expenses and fees for the preparation of plans, specifications and contract documents and supervision and inspection of work. Such plans and specifications may be revised and extras may be added to the contracts only when approved by the Building Commission and only to the extent that funds are available therefor.

### **Section 11. Renovation of the Coliseum.**

The Agricultural Center Board shall proceed with the renovation and repair of the Coliseum as soon as may be practical following the sale of the corporation's securities. Such renovation and repair shall be done by the Agricultural Center Board under the supervision of the Building Commission upon the award of a contract or contracts for each part of the work to the lowest responsible bidder after advertisement for and public openings of sealed bids; provided, that for the purpose of determining the lowest responsible bidder, the invitation for bids and the bidding documents shall be so arranged that alternates from the base bid shall constitute cumulative deductions from the base bid in the event such alternates should be selected. All such contracts shall be lump sum contracts and shall be awarded and executed by the Agricultural Center Board to the respective lowest bidders following determination by the Building Commission of the lowest bidders. Payments made under any such contracts shall be only upon the contractor's written, verified statements when approved by the Building Commission or its agent, in such amounts as the Building Commission may approve as having been then earned under such contracts. The Building Commission shall be reimbursed for all reasonable direct costs incurred by it in connection with such acquisition, construction and equipping, including expenses and fees for the preparation of plans, specifications and contract documents and supervision and inspection of the work. Such plans and specifications may be revised and extras may be added to the contracts only when approved by the Building Commission and only to the extent that funds are available therefor.

### **Section 12. Refunding securities.**

Any securities issued by the corporation may from time to time thereafter be refunded by the issuance of refunding securities of the corporation, but the amount of any refunding securities so issued shall not exceed the principal of the securities refunded thereby together with any unpaid interest thereon, any redemption premium thereon and any expenses of such refunding. Any such refunding securities may be issued regardless of whether the securities to be refunded shall have then matured or shall thereafter mature, and such refunding may be effected either by sale of the refunding securities

and the application of the proceeds thereof to the payment or redemption of the securities so refunded or by exchange of the refunding securities for those to be refunded thereby; provided, that the holders of any securities so to be refunded shall not be compelled without their consent to surrender their securities for payment or exchange prior to the date on which they are payable or, if they are called for redemption, prior to the date on which they may be redeemed by the corporation according to their terms. Any refunding securities of the corporation shall be payable solely from and secured by the revenues out of which the securities to be refunded thereby were payable. The proceeds derived from any sale of refunding securities shall be applied to the purchase, redemption or payment of the securities refunded thereby. Pending the application of said proceeds to the purchase, redemption or payment of such outstanding securities, the said proceeds may be invested in Eligible Investments pursuant to an escrow or trust agreement providing for the future application of such proceeds to the purchase, redemption or payment of such outstanding securities.

**Section 13.** State Treasurer to pay principal and interest.

The State Treasurer is authorized and directed to pay the principal of, premium, if any, and interest on the securities of the corporation as the said principal, premium and interest shall respectively mature and become payable, but only from the sources herein provided.

**Section 14.** Notice of resolution; limitation of actions to contest validity of securities; venue of actions under article.

Upon the adoption by the board of directors of the corporation of any resolution providing for the issuance of securities under the provisions of this Act, the corporation may, in its discretion, cause to be published once a week for two consecutive weeks in a newspaper published and having general circulation in the City of Montgomery, a notice in substantially the following form (the blanks being first properly completed):

“The Alabama Agricultural Markets and Coliseum Corporation (an instrumentality of the State of Alabama), on the \_\_\_\_ day of \_\_\_\_\_, authorized the issuance of \$\_\_\_\_\_ principal amount of securities of the said corporation for purposes authorized in the Act of the Legislature of Alabama under which said corporation was organized. Any action or proceeding questioning the validity of the said securities or the pledge of security made therefor or the proceedings under which the said securities and pledge are authorized must be commenced within 20 days after the first publication of this notice.

**ALABAMA AGRICULTURAL MARKETS AND COLISEUM CORPORATION BY** 

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Its President"

Any civil action or proceeding in any court to set aside the proceedings for the issuance of securities under the provisions of this Act or to contest the validity of any such securities or the validity of the pledge made therefor must be commenced within 20 days after the first publication of the said notice. After the expiration of the said period, no right of action or defense founded upon the validity of the said proceedings or of the said securities or pledge shall be asserted nor shall the validity of the said proceedings, securities or pledge be open to question in any court on any ground whatsoever except in a civil action commenced within such period. Any such civil action or any civil action to protect or enforce any rights under the provisions of this Act shall be brought in the Circuit Court of Montgomery County.

**Section 15. Securities legal investments.**

Securities issued by the corporation under the provisions of this Act shall be legal investments for fiduciaries investing trust funds and for investments by savings banks savings and loan associations and insurance companies organized under the laws of the State and shall be eligible to be used as security for the deposit of funds of the State and its instrumentalities.

**Section 16. Exemption from taxation.**

All securities issued by the corporation and any redemption premium and any interest thereon, the properties of the corporation and any income realized from rents or leases obtained from operation of any market facility constructed under the provision of this Act, or any income realized from rents or leases from any source or business under the control of the Agricultural Center Board, and all instruments which may be filed for record pertaining to the pledge and lien authorized by this Act to be created, shall be exempt from all taxation in the State.

**Section 17. Dissolution of corporation.**

When all securities issued by the corporation and all obligations incurred by it under the provisions of, and within the limitations contained in this Act, shall have been fully paid, then the members of the board of directors of the corporation may at such time file with the Secretary of State a written statement subscribed and sworn to by them, reciting payment in full of all securities of the corporation, and all obligations incurred by it under the provisions of this Act, which statement shall then be recorded by the Secretary

of State with the certificate of incorporation of the corporation, whereupon the corporation shall stand dissolved.

**Section 18.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-253

H. 141—Reps. Smith, Johnson (Roy),  
Holley, Poole, Mitchell

### AN ACT

To amend Section 16-1-18, Code of Alabama 1975, relating to school bus drivers and certain full-time support personnel employed by the boards of control of city and county school systems and the Alabama Institute for Deaf and Blind, so as to provide further for the maximum accumulated days not utilized or being paid for sick leave.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 16-1-18, Code of Alabama 1975, is hereby amended to read as follows:

“§ 16-1-18. The boards of control of city and county school systems and the Alabama Institute for Deaf and Blind shall provide for the payment of school bus drivers and all full-time support personnel who are non-certificated educational employees for absences resulting from sickness, accidents or some other unavoidable cause which prevents such employee from discharging his/her duties; provided, that any employee not utilizing or being paid for the sick leave in any one year may accumulate days at the rate of one day per month for the months employed and carry over the unutilized days to the next consecutive year or years of employment for the same school system or institution or for any other school system or institution in which the employee may later be employed until he/she shall accumulate a maximum of 150 days. The reasons for granting sick leave shall be the same as those for teachers.

“(b) The superintendent of the school system shall certify to the state board of education the actual number of days taken and the actual number of substitutes employed and the cost involved. The state board of education shall reimburse the local boards of education for no more than actual costs of employing substitutes up to the amount paid substitute teachers. Should the funds appropriated be insufficient, each board shall be reimbursed on a pro rata basis. The Alabama Institute for Deaf and Blind shall handle all transac-

tions relating to its sick leave programs in the same manner as all other state agencies do for their employees.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 8, 1984

Time: 3:40 P.M.

Act No. 84-254

H. 50—Reps. Mathis, Carothers, Grimsley,  
Rains

### AN ACT

To amend Sections 26-10-5, Code of Alabama 1975, relating to adoption procedures and rights of natural and adopting parents, so as to provide further for certain rights of natural grandparents of the minor child.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 26-10-5 of the Code of Alabama 1975 is hereby amended to read as follows:

“§ 26-10-5.

“(a) The petition and all orders in adoption proceedings shall be recorded in a book kept for that purpose and properly indexed. Such book shall be a part of the permanent records of the probate court in which such proceedings are had and all reports and affidavits shall be properly filed. The files and records of the probate court in adoption proceedings shall not be open to inspection or copy by persons other than the parties in interest and their attorneys and representatives of the state department of pensions and security, except upon an order of the probate court expressly permitting the same.

“(b) When the final order of adoption shall have been entered, the natural parents of the child, if living, shall be divested of all legal rights and obligations due from them to the child or from the child to them and the child shall be free from all legal obligations of obedience or otherwise to such parents. Provided, however, at the discretion of the court, visitation rights for the natural grandparents of the minor grandchildren may be maintained, or allowed upon petition of modification at any time after the final order of adoption is entered. Additionally, upon the death of the adoptive parent or parents the rights of the natural grandparents as to matters of custody may be considered by the court. Exception: Visitation rights for grandparents does not apply if the minor child has been adopted by

a person other than a stepparent or grandparent. The adopting parent or parents of the child shall be invested with every legal right in respect to obedience and maintenance on the part of the child as if said child had been born to them in lawful wedlock, including the right of said adopting parent or parents of inheritance to real estate and to the distribution of personal estate on the death of such adopted child as if said child had been born to them in lawful wedlock, and the child shall be invested with every legal right, privilege, obligation and relation in respect to education, maintenance and the rights of inheritance to real estate and to the distribution of personal estate on the death of such adopting parent or parents as if born to them in lawful wedlock.

“(c) A final order of adoption made and entered by a probate court shall not be annulled, avoided, set aside or impaired after the lapse of five years from the date thereof because of any irregularity, infirmity or defect in the adoption proceedings.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 7, 1984

Time: 4:35 P.M.

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Act No. 84-255

H. 290—Reps. Carter, Hall, Sasser

### AN ACT

To provide for commercial operation of billiard tables on the premises of businesses located in certain areas of the several counties of this state when such operation has been licensed by the judge of probate as provided in Article 2, Chapter 6, Title 34 of the Code of Alabama 1975.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** All laws to the contrary notwithstanding, any business establishment, which is located outside of the corporate limits of any town or municipality even though it may be located within the police jurisdiction of a town or municipality, is hereby authorized to install and commercially operate billiard tables on its premises so long as the person, firm or corporation operating such tables has secured a license for such operation from the judge of probate of the county wherein such establishment is located as provided for in Article 2, Chapter 6, Title 34 of the Code of Alabama 1975.

**Section 2.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 8, 1984

Time: 3:40 P.M.

Act No. 84-256

H. 471—Reps. Lindsey, Smith, Grimsley,  
Preuitt, Richardson, Dutton,  
Butler, Burke, Moore, Carter,  
Mathis

### AN ACT

To provide for the registration of certain persons skilled in the repair, servicing or installing commercial weighing and measuring devices, thereby allowing the removal of condemned tags placed on said devices for the purpose of repair, by said registered service persons or scale mechanics; to authorize the promulgation of rules and regulations by the Commissioner of Agriculture and Industries, with the approval of the State Board of Agriculture and Industries; to provide for yearly registration and renewal upon the payment of \$25.00; to provide for procedures to be followed for revocation, suspension or refusing to renew the registration or refusing to initially register; to provide for hearing before the Commissioner of Agriculture and Industries and appeals before the State Board of Agriculture and Industries.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the benefit of users, manufacturers and distributors of commercial weighing and measuring devices used in selling commodities, things or service by weight or measure, the Commissioner of Agriculture and Industries is empowered to register certain persons skilled in repairing, servicing or installing said devices. Service persons or scale mechanics that become registered may remove condemnation tags placed on weighing and measuring devices by the Commissioner of Agriculture and Industries or local sealers, for the purpose of repair. The removal of condemnation tags by registered service persons or scale mechanics for the specific purpose of repairing devices shall not constitute a violation of Section 8-16-90, but the removal of said tags by registered service persons or scale mechanics for purposes other than repair shall constitute a violation of Section 8-16-90.

**Section 2.** Only those natural persons who demonstrate to the satisfaction of the Commissioner of Agriculture and Industries their skill in repairing, servicing or installing, weighing and measuring devices may be registered. The Commissioner, under the provisions of Section 2-2-16, is empowered to promulgate rules and regulations which are reasonable and necessary to include necessary skills, standards, procedures and equipment which a registrant must

meet and follow to accomplish the evident purpose and intent of this law.

**Section 3.** Registration of service persons and scale mechanics shall be for a period of 12 months, and shall be renewed each year. A fee of \$25.00 per registrant, to be paid into the agricultural fund, shall accompany each initial request for registration or each renewal thereof. Application forms for registration or renewal, and testing shall be furnished and administered by the Commissioner of Agriculture and Industries. The Commissioner shall also furnish appropriate identification to persons registered as service persons or scale mechanics. Any person removing condemnation tags placed on weighing and measuring devices by the Commissioner of Agriculture and Industries or local sealers, even for purposes of repair, during any time the person's registration may have expired due to failure to renew, shall be considered a violation of Section 8-16-90.

**Section 4.** The Commissioner may revoke, suspend or refuse to renew the registration of service persons or scale mechanics if he determines that the person has failed to abide by the rules and regulations promulgated under this law or has removed a condemnation tag, for purpose other than that of repair, or no longer qualifies under the above rules and regulations. The taking of unfair advantage of an owner of a weighing or measuring device or unsatisfactory work in repairing said devices shall also constitute grounds for refusing to register, revocation, suspension or non-renewal of the registration.

The Commissioner of Agriculture and Industries shall give at least 10 days' written notice by certified mail to the concerned person prior to refusing to register, revocation, suspension or non-renewal of the registration. The notice shall set out the specific grounds under which the action was taken. The registrant or proposed registrant, after receiving notification as set out above, may request a hearing before the Commissioner. This request must be in writing and be received by the Commissioner within 10 days after receiving notice of the Commissioner's intended action. If the written request for a hearing is received within the 10-day period, the Commissioner shall stay his intended action pending the outcome of the hearing. Any adverse ruling at this hearing is appealable to the State Board of Agriculture and Industries provided notice of appeal to the Board is given in writing to the Commissioner within 10 days after receiving written notice of an adverse ruling. The hearing before the State Board of Agriculture and Industries shall follow the proceedings affecting licenses under the Alabama Administrative Procedures Act.



**Section 5.** This Act shall become effective October 1 following its enactment.

Approved May 8, 1984

Time: 3:40 P.M.

Act No. 84-257

H. 625—Reps. Davis, Rogers, Nicholson, Pratt, Escott, Horn, Spratt, Tanner, Goodwin, Lauderdale, Clark (D), Seibels, Hall, Reed, McDowell, Grayson, Brakefield, Parker, Kennedy, Bugg, Crow, Gray, Warren, Thomas, Preuitt, Grimsley, Junkins, Blake, Browder, Carothers, Bryant, Boles, Melton, McNair, Dutton, Bowling, Rains, Hettinger, Trammell, Poole, Moore, Albright, Buskey (John), Burke, Payne, Mathis, Faulk, Hooper, Starr, Biddle, Buskey (James), Holmes, White (G), Beers, White (L), Clark (W)

### AN ACT

To create the Alabama Indian Affairs Commission; to provide for its duties and membership; to provide the method of appointment and compensation of said members; and to repeal Sections 41-9-700 through 41-9-707, Code of Alabama 1975.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** (a) There is hereby created and established the Alabama Indian Affairs Commission, hereinafter called the Commission, which shall be administered under the direction and supervision of the Joint Committee on Administrative Regulations, as provided by Section 41-22-22, Code of Alabama 1975.

(b) The Commission shall be composed of ten (10) members. All members of the Commission must reside in Alabama. Members shall include a member of the State Senate, appointed by the Lieutenant Governor, and a member of the House of Representatives, appointed by the Speaker of the House of Representatives, six (6) Indian representatives from the six (6) tribes, bands, or groups in the State of Alabama, and one (1) member at large. The Governor shall appoint six (6) Indian members from recommendations sub-

mitted by each of the six (6) Indian tribes, bands or groups, principally geographically located as follows: The Poarch Band of Creeks of Escambia County, one (1) member; the Mowa Band of Choctaws of Southwest Alabama, one (1) member; the Star Clan of Muscogee Creeks of Pike County, one (1) member; the Echota Cherokees of Alabama, one (1) member; the Cherokees of Northeast Alabama, one (1) member; and the Cherokees of Southeast Alabama one (1) member. Each of the six identified groups shall have one (1) member. The Commission shall appoint one (1) Alabama resident, who is a member of a federally recognized Indian Tribe, band or group, that is not a member of any tribe represented on this Commission. The Governor shall appoint one (1) member at large, who may be Indian or non-Indian; provided, however, that the majority of the members of the Commission shall always be Indian. All above stated tribes, bands, and groups shall be State recognized upon passage of this act.

“(c) The Commission shall elect a Chairman of the Commission from among its members. Members serving by virtue of their office within state government shall serve so long as they hold that office. The terms of office for all other members shall be for four (4) years each, except for the initial appointments which shall be as follows: Four (4) members for two (2) years; two (2) members for three (3) years; and two (2) members for four (4) years. Each member shall serve until his successor is appointed. Members shall be eligible for reappointment. Upon the death, disability, resignation, removal or refusal to serve of any member, the Governor shall appoint a qualified member of that tribe, band or group to fill the unexpired term of office.

**Section 2.** The purpose of this Commission shall be to deal fairly and effectively with Indian affairs; to bring local, state, federal resources into focus for the implementation or continuation of meaningful programs for Indian citizens of the State of Alabama; to provide aid for Indians as needs demonstrate; to assist Indian communities in social and economic development; to promote recognition of the right of Indians to pursue cultural and religious traditions considered by them to be sacred and meaningful to the American Indian; and to establish appropriate procedures to provide for legal recognition of any future Indian organization who desires State recognition.

**Section 3.** (a) It shall be the duty of the Commission to study, consider, accumulate, compile, assemble and disseminate information on any aspect of Indian affairs; to investigate relief needs of Indians of Alabama and to provide technical assistance in the preparation of plans for the alleviation of such needs; to confer with appropriate officials of local, state and federal governments and

agencies of those concerned with Indian Affairs to encourage and implement coordination of applicable resources to meet the needs of Indians in Alabama; to cooperate with and secure the assistance of the local, state and federal governments or any agencies thereof in formulating any such programs, and to coordinate such programs with any program regarding Indian affairs adopted or planned by the federal government to the end that the Alabama Indian Affairs Commission secure the full benefit of such programs; provided, however, that such Commission is hereby authorized to directly seek and receive from the federal government any grants, funds or other benefits which may be available for Indians; to review all proposed or pending legislation and amendments to existing state legislation affecting Indians in Alabama; and to conduct public hearings on matters relating to Indian affairs.

**Section 4.** The members of the Alabama Indian Affairs Commission shall receive no compensation for their services, other than reimbursement for travel and other expenses actually incurred in the performance of their official duties.

**Section 5.** (a) the Commission shall meet monthly, and at such times that it shall deem necessary. Special meetings may be called by the Chairman or by a petition signed by a majority of the members of the Commission. Ten (10) days notice shall be given in writing prior to the meeting date. Such notice shall describe the matters to be discussed at the meeting.

(b) A simple majority of the members of the Commission shall constitute a quorum for the transaction of business at every monthly meeting of the Commission or any special called meetings for the purpose of transacting business.

(c) Proxy vote shall not be permitted.

**Section 6.** The Commission shall hire an Executive Director for the Commission. Such director shall serve as secretary of the Commission and as chief administrator and executive officer of the Commission, having general charge of the work of the Commission under its direction, and shall hire such other personnel as may be necessary in carrying out the provisions of this act with the approval of the Commission. The Executive Director shall always serve at the discretion of the Commission.

**Section 7.** The Commission is authorized to receive, and hold, gifts, devises, bequests of money, real estate and other things of value to be used in the support and development of its work for the Commission.

**Section 8.** There is hereby appropriated out of funds in the State Treasury, not otherwise appropriated, the sum of \$125,000

perpetually funded for the Commission, which shall begin upon passage of this act, for the operation of the Commission, which funds shall be disbursed in accordance with a financial management system approved by the Legislative Council.

**Section 9.** The Commission shall prepare a written annual report giving an account of its proceedings, transactions, findings and recommendations. This report shall be submitted to the Governor and the legislature. The report will become a matter of public record and will be maintained in the State Department of Archives and History.

**Section 10.** (a) Fiscal records shall be kept by the Executive Director or his/her designee, and will be subject to annual audit by the State Examiner of Public Accounts. The audit report will become a part of the annual report.

(b) Commission members or employees of the Commission who are responsible for receiving and disbursing Commission funds shall be bonded in an amount satisfactory to the Commission, but not less than \$50,000.

**Section 11.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 12.** All laws or parts of laws which conflict with this act are hereby repealed, and specifically Sections 41-9-700 through 41-9-707, Code of Alabama 1975, are repealed.

**Section 13.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 8, 1984

Time: 3:40 P.M.

Act No. 84-258

S. 84—Smith (J)

### AN ACT

To further amend the probate laws so as to clarify certain inconsistencies in portions of the "Probate Code" and probate laws by amending Sections 43-2-230, 43-2-231, 43-2-312, 43-2-313, 43-2-315, 43-2-316, 43-2-336, 43-2-412, 43-2-441, 43-2-442, 43-2-450, 43-2-510, 43-8-114, 43-8-132, as amended and repealing Sections 43-2-314, 43-2-317, 43-2-449, 43-2-466 as amended, of the Code of Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Code of Alabama, as amended, is hereby

amended so that Sections 43-2-230, 43-2-231, 43-2-312, 43-2-313, 43-2-315, 43-2-316, 43-2-336, 43-2-412, 43-2-441, 43-2-442, 43-2-450, 43-2-510, 43-8-114, 43-8-132 are amended to read as follows:

**43-2-230. Applications for letters of administration.**

Whenever letters of administration on the estate of any person presumed to be dead on account of absence for five or more years from the place of his last domicile within this state shall be applied for, it shall be the duty of the judge of probate to whom the application shall be made to accept and file the same and to thereupon take the testimony with respect to whether the petitioner is entitled to such letters; and, if the court is satisfied by the testimony that the applicant would be entitled thereto were the supposed decedent in fact dead, the court shall cause to be advertised in a newspaper published in the county, once a week for four consecutive weeks, the fact of said application, together with notice that on a day certain which shall be at least two weeks after the last of said advertisements, the court will hear evidence concerning the alleged absence of the supposed decedent, and the circumstances and duration thereof.

**§ 43-2-231. Appointment of personal representative.**

It shall be lawful for the respective probate courts of this state to appoint a personal representative of the estates of persons who are presumed to be dead on account of absence for five or more years from the place of their last domicile within this state as provided in this article.

**§ 43-2-312. Contents of inventory.**

The inventory must set forth the property, enumerating each item separately, all debts or demands due or accruing to the decedent, the time such debts or demands are due, the amount of the same and how evidenced, with the credits, if any, and the name of the debtor and the amount of money.

**§ 43-2-313. Oath upon return of inventory.**

On the return of the inventory, the executor or administrator must take and subscribe an oath, to be administered by the judge of probate, or any justice of the peace or notary public of the county, that such inventory is full and complete, as to the property of the decedent, which has come to his knowledge or possession.

**§ 43-2-315. Time for returning inventory.**

The inventory must be returned within two months after the grant of letters.

**§ 43-2-316. Supplemental inventories.**

The executor and administrator must make supplemental inventories of the decedent's estate coming to his knowledge or possession after making the first inventory.

§ 43-2-336. Cultivation under direction of executor or administrator;

When the estate of any decedent is kept together the real estate may be cultivated under the direction of the executor or administrator.

§ 43-2-412. Contesting application.

Any person interested may appear and contest such application, and show that no sale is required, or that it is more for the interest of the estate that other property should be sold.

§ 43-2-441. Authorization to sell — Where will exists.

Lands may be sold by the executor or by the administrator with the will annexed, for the payment of debts, when the will gives no power to sell the same for that purpose.

§ 43-2-442. Same — In case of intestacy.

In case of intestacy, lands may be sold by the administrator for the payment of debts.

§ 43-2-450. Order of sale for payment of debts.

On the hearing of such application, and when the application is by an executor or administrator with the will annexed, that no power is given by the will for that purpose, the court may direct the sale of all, or such portion of the real estate as may be necessary to pay the debts; and such sale may be had on such credit as the court may direct, not exceeding two years.

§ 43-2-510. Credit for expenses of minor distributees.

(a) When the estate of a decedent is solvent, the executor or administrator, out of the assets in his hands, may defray the necessary and reasonable expenses of maintaining and educating minors who are entitled to distribution therein, and who have no legal guardian; and, upon any partial or final settlement by him, the probate court must allow him credit for such expenses. To the extent the expenses are not within the family allowance, the expenses shall be charged against the shares of such minors and deducted therefrom on any distribution of the estate.

(b) An executor or administrator defraying such expenses must file with his account for a settlement a separate account of the amounts paid therefor on account of each of such minors accompa-

nied by proper vouchers, showing the amounts and for what expended.

Section 43-8-114 of the Code of Alabama 1975, as amended, is hereby further amended to read as follows:

§ 43-8-114. Spouse may retain dwelling, etc., until assignment of homestead.

The spouse may retain possession of the dwelling house where the surviving spouse resided with the decedent, with the offices and buildings appurtenant thereto and the plantation connected therewith until homestead is assigned, free from the payment of rent. The obligation to pay rent, if any, on the dwelling shall be an obligation of the decedent's estate.

§ 43-8-132. Self-proved will — Form and execution; how attested will made self-proved; effect.

(a) Any will may be simultaneously executed, attested, and made self-proved, by acknowledgment thereof by the testator and affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of the state where execution occurs and evidenced by the officer's certificate, under official seal, in substantially the following form:

"I, \_\_\_\_\_, the testator, sign my name to this instrument this \_\_\_\_ day of \_\_\_\_\_, 19 \_\_, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my last will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and I am 18 years of age or older, of sound mind, and under no constraint or undue influence."

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Testator

"We, \_\_\_\_\_, the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the testator signs and executes this instrument as his last will and that he signs it willingly (or willingly directs another to sign for him), and that each of us, in the presence and hearing of the testator, hereby signs this will as witness to the testator's signing, and that to the best of our knowledge the testator is 18 years of age or older, of sound mind, and under no constraint or undue influence."

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Witness

\_\_\_\_\_  
Witness

State of \_\_\_\_\_

County of \_\_\_\_\_

"Subscribed, sworn to and acknowledged before me by \_\_\_\_\_, the testator and subscribed and sworn to before me by \_\_\_\_\_, and \_\_\_\_\_, witnesses, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_."

SEAL

(Signed) \_\_\_\_\_

\_\_\_\_\_  
(Official Capacity of  
Officer)

(b) An attested will may at any time subsequent to its execution be made self-proved by the acknowledgement thereof by the testator and the affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of the state where the acknowledgment occurs and evidenced by the officer's certificate, under the official seal, attached or annexed to the will in substantially the following form:

"STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

We, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the testator signed and executed the instrument as his last will and that he had signed willingly (or willingly directed another to sign for him), and that he executed it as his free and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the testator, signed the will as witness and that to the best of his knowledge the testator was at that time 18 years of age or older, of sound mind and under no constraint or undue influence."

\_\_\_\_\_  
Testator

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

"Subscribed, sworn to and acknowledged before me by \_\_\_\_\_



\_\_\_\_\_, the testator, and subscribed and sworn to before me by \_\_\_\_\_, and \_\_\_\_\_, witnesses, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_."

SEAL

(Signed) \_\_\_\_\_

\_\_\_\_\_  
(Official capacity of officer)

(c) If the will is self-proved, as provided in this section, compliance with signature requirements for execution is conclusively presumed, other requirements of execution are presumed subject to rebuttal without the testimony of any witness, and the will shall be probated without further proof, unless there is proof of fraud or forgery affecting the acknowledgment or affidavit.

**Section 2.** The following sections of the Code of Alabama, as amended are hereby repealed: Sections 43-2-314, 43-2-317, 43-2-449 and 43-2-466.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This Act shall become effective immediately upon its passage and approval by the governor, or upon its otherwise becoming law.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-259

S. 334—Senator deGraffenried

### AN ACT

To adopt and incorporate into the Code of Alabama 1975 all general and permanent laws of the State adopted by the Legislature during the 1983 First and Second Special Sessions and the 1983 Regular Session, as contained in the 1983 Cumulative Supplement to the Code of Alabama 1975 and the 1983 Replacement Volume 17 of the Code, and to make certain corrections in such cumulative supplement and replacement volume.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The 1983 Cumulative Supplement to the Code of

Alabama 1975 and the 1983 Replacement Volume 17 of the Code, containing all general and permanent laws of the State adopted during the 1983 First and Second Special Sessions and the 1983 Regular Session, prepared by the Bobbs-Merrill Company and the Michie Company, jointly, as the Alabama Code Commissioner, which said 1983 Cumulative Supplement and said 1983 Replacement Volume 17 are identified and authenticated by the Great Seal of the State of Alabama placed upon the front and back covers of each of the Volumes 3 through 16 and 18 through 22 of the 1983 Cumulative Supplement and upon the first inside page and the last inside page of the 1983 Replacement Volume 17, be and the same are hereby adopted and incorporated into the Code of Alabama 1975 as adopted by Act No. 20, H. 100, of the 1977 Regular Session of the Legislature, approved February 15, 1977 (Acts of 1977, p. 28). Provided, however, the following corrections shall be made to said 1983 Cumulative Supplement and said 1983 Replacement Volume 17:

1. § 10-4-403, Vol. 7, p. 173: On the third line of subsection (d), change the term "non-for-profit" to "not-for-profit".
2. § 12-16-36, Vol. 11, p. 61: On the second line of subdivision (3) of subsection (b), change the figures "6,000" to "600,000".
3. § 12-19-91, Vol. 11, p. 154: On the last line of subdivision (1) of subsection (c) following the words "the petition", insert the words "or notice of appeal".
4. § 15-14-52, Vol. 12A, p. 23: On the third line, delete the word "term" and insert the following language: ". . . following terms, whether used in the singular or plural, shall be given the following respective interpretations:".
5. § 22-32-1, Vol. 14, p. 262: On the first line of paragraph a of Article V, delete the phrase "for a regional facility" and insert in lieu thereof the following: ". . . in which a regional facility is operated . . .".
6. § 31-2-90, 1983 Rep. Vol. 17, p. 310: On the last line of the first paragraph of this section, delete the word "in" preceding the words ". . . the general fund, . . .".
7. § 32-5A-191, 1983 Rep. Vol. 17, p. 534: On the third line of subsection (e), delete the word "or" following "\$5,000.00" and insert in lieu thereof the word "and".
8. § 34-27-55, Vol. 18, p. 230: At the end of the first line of paragraph a of subsection (3), delete the word "seven" and insert in lieu thereof the word "five".
9. § 36-27B-6, Vol. 19, p. 159: In order to more clearly reflect the intent of the provisions of Section 7 of Act No. 83-616 placed as

§ 36-27B-6, delete said § 36-27B-6 in its entirety and add the provisions thereof to § 36-27-2 as subsection (b) and to § 16-25-2 as subsection (b).

10. § 37-4-88, Vol. 20, p. 38: On the second line of subsection (b), delete the word "of" following the word "congress" and insert in lieu thereof the word "or".

11. § 37-12-3, Vol. 20, p. 52: At the end of the first sentence, change the citation "282.602" to "292.602".

It is provided further that the adoption of this Act shall not repeal, supersede, amend, or any any other way affect any statute enacted into law during the 1983 Third and Fourth Special Sessions or any 1984 session of the legislature.

**Section 2.** Upon passage and approval of this Act, the duly authenticated 1983 Cumulative Supplement and the duly authenticated 1983 Replacement Volume 17 shall be transmitted to the Secretary of State, who shall file said supplement and replacement volume in that office. Said supplement and replacement volume shall not be removed from the office of the Secretary of State, but the Secretary of State, upon request, under proper certificate and seal of that office, shall certify any part or parts thereof upon payment of the fee specified by law for similar services.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 7, 1984

Time: 4:35 P.M.

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Act No. 84-260

S. 458—Senators Aldridge, Denton, Bishop  
and Foshee

### AN ACT

To create the Motor Fuel Marketing Act in order to protect Alabama's consumers against major oil company monopolies; to encourage fair and honest competition and to safeguard the public against unfair practices involving the sale of motor fuel in wholesale and retail trades; to provide for enforcement of the Act and penalties for violations; and for related purposes as well as to make certain declarations.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This act shall be known and may be cited as the "Motor Fuel Marketing Act."

**Section 2.** The Legislature makes the following findings with respect to the marketing of motor fuel in Alabama:

(a) Marketing of motor fuel is affected with the public interest.

(b) Unfair competition in the marketing of motor fuel occurs whenever costs associated with the marketing of motor fuel are recovered from other operations, allowing the refined motor fuel to be sold at subsidized prices. Such subsidies most commonly occur in one (1) of three (3) ways: when refiners use profits from refining of crude oil to cover below normal or negative returns earned from motor fuel marketing operations; where a marketer with more than one (1) location uses profits from one location to cover losses from below-cost selling of motor fuel at another location; and where a business uses profits from non-motor fuel sales to cover losses from below-cost selling of motor fuel.

(c) Independent motor fuel marketers (i.e., dealers, distributors, jobbers and wholesalers) are unable to survive predatory subsidized pricing at the marketing level by persons when all of an independent's income comes from marketing operations.

(d) Subsidized pricing is inherently predatory and is reducing competition in the petroleum industry, and if it continues unabated, will ultimately threaten the consuming public.

**Section 3.** It is hereby declared that marketing of motor fuel in Alabama is affected with the public interest. It is hereby declared to be the legislative intent to encourage fair and honest competition, and to safeguard the public against creation of monopolies or unfair methods of competition, in transactions involving the sale of, or offer to sell, or inducement to sell motor fuel in the wholesale and retail trades in this state. It is further declared that the advertising, offering for sale, or sale of motor fuel below cost or at a cost lower than charged other persons on the same marketing level with the intent of injuring competitors or destroying or substantially lessening competition is an unfair and deceptive trade practice. The policy of the state is to promote the general welfare through the prohibition of such sales. The purpose of the Motor Fuel Marketing Act is to carry out that policy in the public interest, providing for exceptions under stated circumstances, providing for enforcement and providing penalties.

**Section 4.** The following terms shall have the meanings ascribed to them in this section unless otherwise stated and unless the context or subject matter clearly indicates otherwise:

(a) "Person" shall mean any person, firm, association, organi-

zation, partnership, business trust, joint stock company, company, corporation or legal entity.

(b) "Motor Fuel" shall mean those products upon which the State Excise Tax levied, or defined, in section 40-17-1 through 40-17-52 and 40-17-170, Code of Alabama 1975, as amended, is imposed.

(c) "Wholesaler" shall mean and include any person qualified as a wholesaler of motor fuel with the State Revenue Commissioner, and shall also mean and include any person, other than a buying pool defined herein, wherever resident or located, who brings or causes to be brought into this state motor fuel purchased directly from the manufacturer thereof.

(d) "Wholesale distribution" shall mean any person, or the act of any person, including any affiliate of such person, in commerce within the state, who purchases motor fuel for sale, consignment or distribution to another, or, receives motor fuel on consignment for consignment or distribution to his own motor fuel accounts or to accounts of his supplier, but shall not include a person who is an employee of, or merely serves as, a common carrier providing transportation services for such supplier.

(e) "Retailer" shall mean and include any person who is engaged in this state in the business of selling motor fuel at retail to the general public for ultimate consumption, and includes any group of persons, cooperative organizations, buying pools and any other person or group purchasing motor fuel on a cooperative basis from licensed distributors or wholesalers.

(f) "Buying pool" means and includes any combination, corporation, association, affiliation or group of retail dealers operating jointly in the purchase, sale, exchange or barter of motor fuel, the profits of which accrue directly or indirectly to such retail dealers.

(g) "Sale" or "sell" shall mean any transfer for a combination, exchange, barter, gift, offer for sale, advertising for sale, soliciting an order for motor fuel and distribution in any manner or by any means whatsoever.

(h) "Sell at wholesale," "sale at wholesale" and "wholesales" shall mean and include any sale made in the ordinary course of trade or usual conduct of the wholesaler's business to a retailer for the purpose of resale.

(i) "Sell at retail," "sale at retail" and "retail sales" shall mean and include any sale for consumption or use in the ordinary course of trade or usual conduct of the seller's business.

(j) "Customary discount for cash" shall mean and include any

allowance, whether a part of a larger discount or not, made to a wholesaler or retailer when such person pays for motor fuel within a limited or specified time.

(k) "Refiner" shall mean any person engaged in the production or refining of motor fuel, whether such production or refining occurs in this state or elsewhere, and includes any affiliate of such person.

(l) "Cost to refiner" shall mean that refiners' posted terminal price to the wholesale class of trade. In the event a refiner does not regularly sell to the wholesale class of trade at that terminal or does not post such a terminal price, it may use as its cost the posted price of any other refiner at any terminal within the general trade area which has products readily available for sale to the wholesale class of trade.

(m) "Competition" shall mean and include any person who competes with another person in the same market area at the same level of distribution.

(n) "Basic cost of motor fuel" shall mean whichever of the two (2) following amounts is lower, namely, (i) the invoice cost of motor fuel to the wholesaler or retailer, as the case may be, or (ii) the lowest replacement cost of motor fuel to the wholesaler or retailer, as the case may be, within five (5) days prior to the date of sale, in the quantity last purchased (whether within or before the said five-day period), less, in either of said two (2) cases, all trade discounts except customary discounts for cash, plus the full value of freight costs and any taxes which may be required by law, now in effect or hereafter enacted, if not already included in the invoice cost of the motor fuel to the wholesaler or retailer, as the case may be. In computing its basic cost of motor fuel, its cost of doing business and in meeting competition under Section 8 of this Act; a refiner that assesses a processing fee of any kind for credit card transactions must assess such fees in a like manner to its affiliates.

(o) "Cost to wholesaler" shall mean, as applied to wholesale distribution, the invoice or replacement cost of the motor fuel within five (5) days prior to the date of sale, in the quantity last purchased, whichever is less, less all trade discounts except customary discounts for cash, to which shall be added all applicable state, federal and local taxes, inspection fees, freight charges not otherwise included in the cost of motor fuel, cartage to the retail outlet, if paid by the wholesaler, plus the cost of doing business.

(p) "Cost to retailer" shall mean, as applied to retail sales, the invoice or replacement cost of the motor fuel within five (5) days prior to the date of sale, in the quantity last purchased, whichever is

less, less all trade discounts except customary discounts for cash, to which shall be added all applicable state, federal and local taxes, inspection fees, freight cost, if paid by the retailer, plus the cost of doing business.

(q) "Cost of doing business" or "overhead expenses" shall mean and include all costs incurred in the conduct of business, including but not limited to: labor (including salaries of executives and officers), rent (which rent must be no less than fair market value based on current use), interest on borrowed capital, depreciation, selling cost, maintenance of equipment, transportation or freight cost, losses due to breakage or damage; credit card fees, or other charges; credit losses, all types of licenses, taxes, insurance and advertising.

(r) "Transfer price" shall mean and include the price used by a person in transferring motor fuel to itself or an affiliate for resale at another marketing level. Such price shall be determined using standard, functional accounting procedures.

(s) "Affiliate" shall mean any person who (other than by means of franchise) controls, is controlled by, or is under common control with, any other person.

**Section 5.** All persons engaged in commerce in this state are required to disclose, upon request, their transfer prices on each grade of motor fuel transferred or sold to itself or an affiliate for resale at another marketing level of distribution. Such disclosure shall only be made to those persons affected by such transfer prices or in any legal proceedings arising from this Act.

**Section 6.** It shall be unlawful for any person engaged in commerce in this state to sell or offer to sell motor fuel below cost or to sell or offer to sell it at a price lower than the seller charges other persons on the same day and on the same level of distribution, within the same market area, where the effect is to injure competition.

**Section 7.** It shall be unlawful for any person engaged in commerce in this state to sell or transfer motor fuel to itself or an affiliate for resale at another marketing level of distribution at a transfer price that is below cost or lower than the price it charges a person who purchases for resale on the same day and at the same distribution level, within the same market area, where the effect is to injure competition.

**Section 8.** (1) It is not a violation of this Act if a difference exists between the transfer price or sales price of motor fuel of like grade and quality and the price charged to a person who purchases for resale at the same level of distribution, including any discounts,

rebates, allowances, services, facilities granted any of a supplier's own marketing operations in excess of those provided to a person who purchases for resale at the same level of distribution, if the lower price is due to a cost differential incurred because of a difference in shipping method, transportation, marketing, sale or quantity, in which such motor fuel is sold.

(2) It is not a violation of this Act if any price is established in good faith to meet an equally low price of a competitor in the same market area on the same level of distribution selling the same or a similar product of like grade and quality or is exempt under Section 13 of this act.

**Section 9.** It shall be unlawful under this section:

(1) For any person engaged in commerce in this state to sell or offer to sell motor fuel at wholesale or retail, as the case may be, where the effect is to injure competition.

(2) For any person, where the effect is to injure competition, to offer a rebate, to offer to give a rebate, to offer a concession of any kind in connection with the sale of motor fuel.

(3) For any retailer to induce or attempt to induce or to procure or attempt to procure the purchase of motor fuel at a price less than cost to wholesaler. Any person who violates any provision of this section shall be subject to the provisions and penalties of this act.

**Section 10.** In all advertisements, offers for sale or sales involving two (2) or more items, at least one (1) of which items is motor fuel, at a combined price, and in all advertisements, offers of sale, or sales, involving the giving of any gift or concession of any kind whatsoever (whether it be coupons or otherwise), the wholesaler's or retailer's combined selling price shall not be below the cost to the wholesaler or the cost to the retailer, respectively, of the total of all articles, products, commodities, gifts and concessions included in such transactions, except that if any such articles, products, commodities, gifts or concessions, shall not be motor fuel, the basic cost thereof shall be determined in like manner as provided in item (n) of Section 4 of this Act.

**Section 11.** When one wholesaler sells motor fuel to any other wholesaler, the former shall not be required to include in his selling price to the latter "cost to the wholesaler" as provided by Section 4 of this act, but the latter wholesaler, upon resale to a retailer, shall be subject to the provisions of said section.

**Section 12.** (1) The provisions of the Motor Fuel Marketing Act shall not apply to a sale at wholesale or a sale at retail made (a) in an isolated transaction and not in the usual course of business;



(b) where motor fuels are advertised, offered for sale, or sold in a bona fide clearance sale for the purpose of discontinuing trade in such motor fuel, and said advertising, offer to sell, or sale shall state the reason thereafter and the quantity of such motor fuel advertised, offered for sale, or to be sold; (c) where motor fuel is advertised, offered for sale, or sold as imperfect or damaged, and said advertising, offer of sale or sale shall state the reason therefor and the quantity of such motor fuel advertised, offered for sale, or to be sold; (d) where motor fuel is sold upon the final liquidation of a business; or (e) where motor fuel is advertised, offered for sale, or sold by any fiduciary or other officer under the order or direction of any court.

(2) The notice required to be given under this section shall not be sufficient unless the subject of such sales is kept separate from other stocks and clearly and legibly marked with the reason for such sales, and any advertisement of such goods must indicate the same facts and the quantity to be sold.

**Section 13.** (1) Any wholesaler may advertise, offer to sell, or sell motor fuel at a price made in good faith to meet the price of a competitor who is rendering the same type service and is selling the same article at cost to the said competing wholesaler as defined in this act. Any retailer may advertise, offer to sell, or sell motor fuel at a price made in good faith to meet the price of a competitor who is selling the same article at cost to the said competing retailer as defined in this act. The price of motor fuel advertised, offered for sale, or sold under the exceptions specified in Section 12 of this act shall not be considered the price of a competitor and shall not be used as a basis for establishing prices below cost, nor shall the price established at a bankrupt sale be considered the price of a competitor within the purview of this section.

(2) In the absence of proof of the actual cost to the said competing wholesaler or the said competing retailer, as the case may be, such cost may be presumed to be the lowest cost to wholesalers or the lowest cost to retailers, as the case may be, within the same market area as determined by a cost survey made pursuant to subsection (2) of Section 15 of this act.

**Section 14.** Any contract, express or implied, made by any person in violation of any of the provisions of this act, is illegal and void and no recovery shall be had thereon.

**Section 15.** (1) In determining cost to the wholesaler and cost to the retailer, the court of jurisdiction shall receive and consider as bearing on the bona fides of such cost, evidence tending to show that any person complained against under any of the provisions of this act purchased the motor fuel involved in the complaint, at a fictitious price, or upon terms, or in such a manner, or under

such invoices, as to conceal the true costs, discounts or terms of purchase, and shall also receive and consider as bearing on the bona fides of such costs, evidence of the normal, customary and prevailing terms and discounts in connection with other sales of a similar nature in the market area.

(2) Where a cost survey pursuant to recognized statistical and cost accounting practices has been made for a market area in which a violation of this act is committed or charged, to determine and establish on the basis of actual existing conditions the lowest cost to wholesalers or the lowest cost to retailers within the said area, the said cost survey shall be deemed competent evidence in any action or proceeding under this act as tending to prove actual cost to the wholesaler or actual cost to the retailer complained against, but any party against whom any such cost survey may be introduced in evidence shall have the right to offer evidence tending to prove any inaccuracy of such cost survey or any state of facts which would impair its probative value.

**Section 16.** (1) Any person who violates this act shall be subject to a civil penalty not to exceed ten thousand dollars (\$10,000.00) per violation for each offense. Any such person shall also be liable for attorney fees and shall be subject to injunctive relief. Each day that a violation of this act occurs shall be considered as a separate violation.

(2) Such penalty may be assessed and recovered in a civil action brought by the Attorney General, or by any district attorney in any court of competent jurisdiction. If brought by a district attorney, the entire amount of the penalty shall be paid to the treasury of the county in which the judgment was entered. If brought by the Attorney General, one-half of the penalty shall be paid to the treasury of the county where the action was brought and one-half shall be paid to the State Treasury.

**Section 17.** (1) Any person injured by any violation, or who would suffer injury from any threatened violation, of this act may maintain an action in any court of equity jurisdiction to prevent, restrain, or enjoin such violation or threatened violation. If in such action a violation or threatened violation of this act shall be established, the court shall enjoin and restrain, or otherwise prohibit, such violation or threatened violation and, in addition thereto, the court shall assess in favor of the plaintiff and against the defendant the costs of suit, including reasonable attorney's fees. In such action it shall not be necessary that actual damages to the plaintiff be alleged or proved, but where alleged and proved, the plaintiff in said action, in addition to such injunctive relief and cost of suit, includ-

ing reasonable attorney's fees, shall be entitled to recover from the defendant the damages sustained by him.

(2) A person injured as a result of an act or practice which violates this act may bring a civil action for appropriate relief, including an action for a declaratory judgment, injunctive relief, and for actual damages. Any actual damages found to have resulted from violations of this act shall be trebled by the court in making its award. Any action under this subsection shall be brought within two (2) years after the alleged violations occurred.

(3) The court, in making an award under sub-section (2) of this section, may award court costs and reasonable attorney's fees to the prevailing party.

(4) The courts of this state are empowered with jurisdiction to hear and determine all cases brought under this section. Venue lies in any county where the defendant or any of them resides or does business or where the cause of action accrues.

**Section 18.** In any action brought under Section 15, 16 or 17 of this act, upon a prima facie showing of a violation, the burden of rebutting the prima facie case thus made by showing justification shall shift to the defendant. A prima facie showing of a violation shall be constituted if the plaintiff shows:

(a) That the plaintiff's purchase price from a refiner or wholesaler is greater than said refiner's transfer price; or

(b) That the plaintiff's purchase price from a refiner or wholesaler plus the plaintiff's cost of doing business is greater than said refiner's or wholesaler's retail posted sales price; or

(c) That the plaintiff's basic cost of motor fuel plus the plaintiff's cost of doing business is greater than the posted sales price at a retail location of a competitor, within the plaintiff's marketing area, suspected of selling motor fuel in violation of this act.

**Section 19.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 20.** All laws or parts of laws which conflict with this act are repealed.

**Section 21.** This act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved May 8, 1984

Time: 3:40 P.M.

Act No. 84-261

S. 78—Senator Smith (J)

## AN ACT

Providing for the termination of parental rights and responsibilities of parents who are unable or unwilling to discharge their responsibilities to and for the child; providing certain definitions; enumerating the circumstances to be considered by the court in cases where such rights and responsibilities are sought to be terminated; providing for the procedure to be followed in termination cases; providing for the disposition of such cases; and providing for periodic review of the circumstances of certain children.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This act shall be known as and may be cited as the "1984 Child Protection Act."

**Section 2.** It is the purpose of this Act to provide meaningful guidelines to be used by the juvenile court in cases involving the termination of parental rights in such a manner as to protect the welfare of children by providing stability and continuity in their lives, and at the same time to protect the rights of their parents. Appeals from an order terminating parental rights or refusing to terminate parental rights shall have precedence over all other cases in the court to which the appeal is taken.

**Section 3.** The following words and phrases shall have the following meaning whenever used in this Act except where the context clearly indicates a different meaning:

(1) **ABANDONMENT.** A voluntary and intentional relinquishment of the custody of a child by a parent, or a withholding from the child, without good cause or excuse, by the parent, of his presence, care, love, protection, maintenance or the opportunity for the display of filial affection, or the failure to claim the rights of a parent, or failure to perform the duties of a parent.

(2) **CHILD.** The individual under the age of 18 years whose custody is in question or as to whom a petition is pending whereby the parental rights of its parents are sought to be terminated.

(3) **CHILD-PLACING AGENCY.** The same as the term is defined by Section 38-7-2(7), Code of Alabama 1975.

(4) **COURT.** The juvenile court or the court exercising jurisdiction over juvenile cases.

(5) **DEPARTMENT.** The Department of Pensions and Security of the State of Alabama.

(6) **PARENTS.** The legal or biological parents of a child, inclusive of a putative father.

(7) **PETITION.** A petition seeking to terminate any or all of the legal rights of one or more parents with respect to a child.

(8) **PETITIONER.** The person who files a petition with the court.

**Section 4.** Unless otherwise provided herein, proceedings to terminate parental rights shall be governed by Title 12, Chapter 15, Article 3, Code of Alabama 1975, and by the Alabama Rules of Juvenile Procedure. No complaint or petition shall be filed by any party unless it alleges that the party filing the same or a public or private licensed child-placing agency is able and willing to assume custody of said child, and no such petition shall be granted except upon proof of such allegations.

**Section 5.** A petition may be filed by any public or private licensed child-placing agency or parent, with permission of the court, or any interested party.

**Section 6.** Service of process shall be made in accordance with the Alabama Rules of Civil Procedure except as otherwise provided by the Alabama Rules of Juvenile Procedure.

**Section 7.** (a) If the court finds from clear and convincing evidence, competent, material and relevant in nature, that the parents of a child are unable or unwilling to discharge their responsibilities to and for the child, or that the conduct or condition of the parents is such as to render them unable to properly care for the child and that such conduct or condition is unlikely to change in the foreseeable future, it may terminate the parental rights of the parents. In determining whether or not the parents are unable or unwilling to discharge their responsibilities to and for the child, the court shall consider, and in cases of voluntary relinquishment of parental rights may consider, but not be limited to, the following:

(1) That the parents have abandoned the child, as herein defined;

(2) Emotional illness, mental illness or mental deficiency of the parent, or excessive use of alcohol or controlled substances, of such duration or nature as to render the parent unable to care for needs of the child;

(3) That the parent has tortured, abused, cruelly beaten or otherwise maltreated the child, or attempted to torture, abuse, cruelly beat or otherwise maltreat the child, or the said child is in clear and present danger of being thus tortured, abused, cruelly beaten, or otherwise maltreated as evidenced by such treatment of a sibling;

(4) Conviction of and imprisonment for a felony;

(5) Unexplained serious physical injury to the child under

such circumstances as would indicate that such injuries resulted from the intentional conduct or willful neglect of the parent;

(6) That reasonable efforts by the Department of Pensions and Security or licensed public or private child care agencies leading toward the rehabilitation of the parents have failed.

(b) Where a child is not in the physical custody of its parent or parents appointed by the court, in addition to the foregoing, shall also consider, but is not limited to the following:

(1) Failure by the parents to provide for the material needs of the child or to pay a reasonable portion of its support, where the parent is able to do so.

(2) Failure by the parents to maintain regular visits with the child in accordance with a plan devised by the Department, or any public or licensed private child care agency, and agreed to by the parent.

(3) Failure by the parents to maintain consistent contact or communication with the child.

(4) Lack of effort by the parent to adjust his circumstances to meet the needs of the child in accordance with agreements reached, including agreements reached with local Departments of Pensions and Security or licensed child-placing agencies, in an administrative review or a judicial review.

(c) In any case where the parents have abandoned a child as herein defined and such abandonment continues for a period of six months next preceding the filing of the petition, such facts shall constitute a rebuttable presumption that the parents are unable or unwilling to act as parents.

**Section 8.** If the court determines that the parents of a child are incapable to act as parents and terminates their parental rights, it may:

(1) Transfer the permanent legal custody of the child to the Department or to any public or private licensed child-placing agency able and willing to assume the care and maintenance of the child, with or without an order to proceed with plans for the adoptive placement of the child. A court order which terminates parental rights and awards permanent custody to the Department of Pensions and Security or to a licensed child-placing agency shall mean that the said Department or said licensed child-placing agency shall have authority to make permanent plans for the child, including the authority to place for adoption and consent to adoption.

(2) Transfer the permanent legal custody of the child to a rel-

ative or other individual who, after study by the Department, is found to be able to properly receive and care for the child.

**Section 9.** Where the court has terminated the rights and responsibilities of the parents and has placed custody of the child with the Department or with a public or private licensed child-placing agency, or with an individual, the court shall, at least yearly, review the circumstances of the child to determine what efforts have been made to achieve the adoption of the child.

**Section 10.** Upon the court's termination of parental rights and placement of custody of a child with any agency, person or department, any such agency, person or department shall have the authority to place said child for adoption or to consent to said adoption.

**Section 11.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 12.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 13.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 8, 1984

Time 3:40 P.M.

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Act No. 84-262

S. 21—Senator Holmes

### AN ACT

To create, within the Alabama Development Office, an Alabama Small Business Office of Advocacy to serve as the principal advocate in the state on behalf of small businesses, including advisory participation in the consideration of legislation and administrative regulations affecting small businesses; to specify the functions and duties of the office; and to require the office to submit an annual report to the Governor and the legislature describing the activities and recommendations of the office.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby created, within the Alabama Development Office, the Alabama Small Business Office of Advocacy for the purpose of aiding, counselling, assisting and protecting, insofar as possible, the interests of small business concerns in order to preserve free competitive enterprise and maintain a healthy state economy; and to provide information and assistance to citizens interested in entering into commercial activity.

**Section 2.** For purposes of this act, the following words and phrases shall have the following meanings:

(a) "Small business" means a small business, as defined in Section 25-10-3, Code of Alabama 1975.

(b) "Office" means the Alabama Small Business Office of Advocacy.

(c) "Director" means the director of the Alabama Small Business Office of Advocacy.

(d) "A.D.O." means the Alabama Development Office.

**Section 3.** (a) The management of the office created by this act shall be vested in a director, who shall be designated by the director of the A.D.O.

(b) The A.D.O. director may assign other A.D.O. employees or other employees in the state merit system and exempt positions in the various executive branch departments to assist the director for such periods of time as are necessary to enable the director to carry out his responsibilities.

**Section 4.** The duties and functions of the office shall include all of the following:

(a) Serve as the principal advocate in the state on behalf of small businesses, including, but not limited to, advisory participation in the consideration of all legislation and administrative regulations which affect small businesses.

(b) Establish a central reference program and general counseling service to assist small businesses.

(c) Represent the views and interests of small businesses before other state agencies whose policies and activities may affect small businesses.

(d) Enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by state government which are of benefit to small businesses, and information on how small businesses can participate in, or make use of, those programs and services.

(e) Evaluate the efforts of state agencies, businesses, and industry to assist minority small business enterprises, and make such recommendations as may be appropriate to assist the development and strengthening of minority and other small business enterprises.

(f) Consult with experts and authorities in the fields of small business investment, venture capital investment, and commercial



banking and other comparable financial institutions involved in the financing of business, and with individuals with regulatory, legal, economic, or financial expertise, including members of the academic community and individuals who generally represent the public interest.

(g) Determine the desirability of developing a set of rational, objective criteria to be used to define small business, and to develop such criteria, if appropriate.

(h) To provide a center of information where a person interested in establishing a commercial facility or engaging in a commercial activity may be informed of any registration, license, or other approval of a state regulatory agency that is required for that facility or activity or of the existence of standards, criteria, or requirements which the laws of this state require that facility or activity to meet.

**Section 5.** Each state agency which requires a permit, license, or other regulatory approval or maintains standards or criteria with which an activity or facility must comply shall inform the office of the following:

- a. The activity or facility that is subject to regulation.
- b. The existence of any threshold levels which would exempt the activity or facility from regulation.
- c. The nature of the regulatory program.
- d. The amount of any fees.
- e. How to apply for any permits or regulatory approvals.
- f. A brief statement of the purpose of requiring the permit or regulatory approval or requiring compliance with the standards or criteria.

**Section 6.** Each state agency shall promptly inform the office of any changes in the information provided under this act or the establishment of a new regulatory program. The information provided to or disseminated by the office shall not be binding upon the regulatory program of a state agency.

**Section 7.** For the purpose of implementing the provisions of this act, the office shall establish a toll-free telephone number.

**Section 8.** Each agency of the state shall furnish to the director such reports, documents, and information as the director deems necessary to carry out his functions under this act. The office shall prepare and submit a written annual report to the Governor and to the Legislature, that describes the activities and recommendations of the office.

**Section 9.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 10.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-263

S.J.R. 179—Senators Teague and  
Goodwin

### SENATE JOINT RESOLUTION

**RATIFYING THE OCTOBER 14, 1983, AGREEMENT OF MUTUAL ASSISTANCE BETWEEN THE CHINA EXTERNAL TRADE DEVELOPMENT COUNCIL OF THE REPUBLIC OF CHINA AND THE STATE OF ALABAMA OF THE UNITED STATES OF AMERICA.**

WHEREAS, in October 1983, an agreement was entered into between the China External Trade Development Council, hereinafter referred to as Council, and the State of Alabama, hereinafter referred to as State; and

WHEREAS, said Agreement, signed on October 14, 1983, by Kwang-Shih Chang, Chairman of the Board of Directors of the Council, and by George C. Wallace, Governor of the State of Alabama, was entered in anticipation of, and dependent upon, resolutions being passed by the State and the Council ratifying said Agreement; and

WHEREAS, said Agreement reads as follows, to-wit:

“WHEREAS, it is established that there is a great mutuality of interest in areas of social, economic, educational and cultural programs, and the conduct of such programs would bring our citizens closer together and strengthen international understanding and that it is the development of such mutuality of interest that is the most desired bond for common benefit; and

“WHEREAS, the acknowledgement of mutual friendship, understanding and goodwill would serve to enhance future trade development efforts between Taiwan, the Republic of China, and the State of Alabama; and

“WHEREAS, the Council and the State of Alabama each be-

lieve that the encouragement and promotion of trade is essential to an effective economic development program;

**"IT IS THEREFORE MUTUALLY AGREED AS FOLLOWS:**

"1. The Council and the State shall each take necessary steps to exchange trade and market information and to disseminate to the businessmen of the two countries information on the goods and services that are available from the other country.

"2. Both parties shall notify and assist each other in the holding of trade exhibitions, or fairs, of products of the two countries.

"3. Special effort shall be taken to continue to identify particular products and commodities which should be traded between Taiwan, the Republic of China, and Alabama.

"4. Frequent exchange visits shall be sponsored and promoted for delegations and businessmen of the two parties, and cooperation and assistance shall be extended to the visitors so sponsored by the other party.

"5. All such steps as may be necessary and feasible shall be taken to promote the trade and economic cooperation between the two parties.

"6. This Agreement may be terminated by either party without limitations upon ninety (90) days' written notice."; and

WHEREAS, the Alabama Legislature unanimously concurs in the mutual agreement of Council and State as hereinabove stated; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby formally approve, sanction and ratify the October 14, 1983, AGREEMENT OF MUTUAL ASSISTANCE BETWEEN THE CHINA EXTERNAL TRADE DEVELOPMENT COUNCIL OF THE REPUBLIC OF CHINA AND THE STATE OF ALABAMA OF THE UNITED STATES OF AMERICA.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-264

S.J.R. 191—Senator Little

#### SENATE JOINT RESOLUTION

COMMENDING THE RUSSELL CORPORATION OF ALEXANDER CITY, ALABAMA.

WHEREAS, the Alabama Legislature, in highest commendation, extends heartiest congratulations to the Russell Corporation of Alexander City, Alabama, citationist of the 1984 President's Volunteer Action Awards; and

WHEREAS, the Russell Corporation, in recognition of outstanding American volunteer achievement, was honored for a number of its programs including utilization of the company's financial and human resources to provide community assistance; and

WHEREAS, more specifically, Russell Corporation provides special support to the local RSVP recycling program, encourages employee involvement in Scouting, and annually sponsors the day-long Oktoberfest for local craftsmen and various organizations; and

WHEREAS, it is further to be noted that the Russell Corporation of Alexander City was one of only 31 award recipients and citationists selected from a field of over 2500 nominations, nationwide; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend and congratulate the Russell Corporation of Alexander City, Alabama; we further express deep and sincere gratitude for the corporation's community support and involvement and direct that a copy of this resolution be forwarded to company officials in small token of the legislature's appreciation and esteem.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-265

S.J.R. 200—Senator Ellis

### SENATE JOINT RESOLUTION

MOURNING THE DEATH OF MR. FREDRICK R. MCCLENDON OF SHELBY COUNTY, ALABAMA.

WHEREAS, the Alabama Legislature, in deep sadness and regret, records the death of Mr. Fredrick R. McClendon of Shelby County, Alabama, on March 25, 1984, at the age of 85 years; and

WHEREAS, Mr. McClendon, who was retired from the Shelby County Highway Department, was a prominent area citizen and civic leader; he was a former Shelby County Commissioner, from 1951 to 1959, and was a member and deacon of Ryan Baptist Church; and

WHEREAS, Mr. McClendon was born January 21, 1899, in the

Bluff Ridge Community of Jefferson County and was educated in the public schools of that county; he was the son of Jasper L. and Ella Jane Vandford McClendon; and

WHEREAS, Mr. McClendon was the widower of the former Mary Ann Eckerd to whom he was married for 58 years, from July 15, 1922, until her death in 1980; they were the parents of one daughter, Mrs. Virginia Huckabee, who survives her father as does his grandson, Franklin Dale Huckabee; and

WHEREAS, Mr. McClendon, a devoted husband and father, also was a beloved member of his community which he long served in civic responsibility and concern; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Mr. Fredrick R. McClendon of Shelby County, Alabama, and extend our very deepest sympathy to his family to whom a copy of this resolution shall be sent, expressing our sincerely shared sorrow in their great and grievous loss.

Approved May 7, 1984

Time: 4:30 P.M.

Act No. 84-266

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S.J.R. 203—Senators deGraffenried,  
Aldridge, Amari,  
Bailey, Barron,  
Bedford, Bedsole,  
Bennett, Bishop,  
Cabaniss, Cooley,  
Corbett, Covington,  
Denton, Dial, Dixon,  
Drinkard, Ellis,  
Figures, Foshee,  
Goodwin, Hand,  
Hilliard, Holmes,  
Langford, Little,  
Menton, Mitchem,  
Parsons, Pearson,  
Sanders, Smith (B),  
Smith (J), Strong and  
Teague.

# SENATE JOINT RESOLUTION

MOURNING THE DEATH OF MR. WALTER W.  
FLOWERS, JUNIOR.

WHEREAS, the Alabama Legislature and the State of Alabama have been deeply shocked and saddened by the untimely death of Walter W. Flowers, Junior, on April 12, 1984; and

WHEREAS, Mr. Flowers, whose death occurred on the 51st anniversary of his birth, was a native Alabamian born in Greenville in Butler County, Alabama; he resided for most of his life, however, in Tuscaloosa, and was a graduate of the University of Alabama and of the University's School of Law in 1957; and

WHEREAS, he was a member of Jasons and Phi Beta Kappa, and was a Rotary Foundation Fellow at the University of London in 1957-58; and

WHEREAS, Mr. Flowers was admitted to the Alabama Bar in 1957, to the Mississippi Bar in 1960 and, from 1961 to 1968, was engaged in the private practice of law in Tuscaloosa; and

WHEREAS, in 1968, Mr. Flowers was elected to the United States Congress from Alabama's Seventh Congressional District; he was subsequently re-elected to four additional consecutive terms, his influence and status in Congress increasing significantly with each election; and

WHEREAS, Representative Flowers, during his decade in Congress served on such prestigious committees as Science and Technology, the ad hoc committee on Energy, the select committees on Aging and on Ethics, House Democratic Steering and Policy Committee and Judiciary; and

WHEREAS, the death of Walter Flowers, Junior, has indeed left a deep void in the lives of his family, and in the lives of those he served with distinction as a United States Congressman; he was an extraordinary individual, a man of great principle and one whose decisions and judgments were dictated by an ethical conscience and his firm belief in a strict delineation between right and wrong; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That giving thanks for his life, we grievously mourn the death of Walter W. Flowers, Junior, a truly distinguished Alabama and a great American patriot.

BE IT FURTHER RESOLVED, That we extend deepest sympathy to his wife, Mrs. Beverly Flowers; his sons, Walter W., III, and Victor Flowers; his daughter, Mrs Vivian Porter and to his father, Mr. Walter W. Flowers, whose sorrow we genuinely share and for whom copies of this resolution shall be provided.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-267

S.J.R. 205—Senator deGraffenried

## SENATE JOINT RESOLUTION

COMMENDING THE COMMITMENT AND CONTRIBUTIONS OF HOSPITALS THROUGHOUT THE STATE OF ALABAMA TOWARD SERVING THE NEEDS OF INDIGENT MATERNAL AND CHILD HEALTH CARE RECIPIENTS.

WHEREAS, The Alabama Advisory Council on Maternal and Child Health was established in recognition of the need for improved maternal and child health services; and

WHEREAS, a stated purpose of this Council is to bring together and optimize relationships between all existing resources, public and private, with any interest in family planning, maternal, infant and/or child health in order to better serve the people of Alabama; and

WHEREAS, the hospitals of Alabama are vital components of the existing resources; and

WHEREAS, most hospitals provide care for a significant portion of indigent obstetrical patients and infants through emergency services, labor and delivery, post partum, well-baby and/or intensive care nurseries; and

WHEREAS, the infant mortality rate (a nationally recognized indicator of maternal and child health) for Alabama has been and continues to be higher than that of the United States; and

WHEREAS, Alabama has had and continues to have one of the highest teenage pregnancy rates in the United States; and

WHEREAS, the poor, the working poor and lower middle class women and children often experience difficulty in obtaining obstetric services; and

WHEREAS, this Legislature wishes to join with the Alabama Advisory Council on Maternal and Child Health in commending the members of the Alabama Hospital Association for their sense of responsibility and commitments toward meeting the needs of indigent maternal and child health care recipients; and

NOW, THEREFORE, BE IT RESOLVED by the Alabama Legislature that it herewith expresses its appreciation for the commitment and contributions made by the members of the Alabama Hospital Association toward better serving the maternal and child health care needs of the people of Alabama;

BE IT FURTHER RESOLVED that copies of this resolution

be sent to the President of the Alabama Hospital Association and to the Chairperson of the Alabama Advisory Council on Maternal and Child Health.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-268

S.J.R. 206—Senator deGraffenried

### SENATE JOINT RESOLUTION

**COMMENDING THE COMMITMENT AND THE CONTRIBUTIONS OF OBSTETRICIANS THROUGHOUT THE STATE OF ALABAMA TO THE CARE OF INDIGENT OBSTETRICAL PATIENTS.**

WHEREAS, The Alabama Advisory Council on Maternal and Child Health was established in recognition of the need for improved maternal and child health services; and

WHEREAS, a stated purpose of this Council is to bring together and optimize relationships between all existing resources, public and private, with any interest in family planning, maternal, infant and/or child health in order to better serve the people of Alabama; and

WHEREAS, the obstetricians of Alabama are vital components of the existing resources; and

WHEREAS, most obstetricians have provided and continue to provide care for a significant portion of indigent patients; and

WHEREAS, the infant mortality rate (a nationally recognized indicator of maternal and child health) for Alabama has been and continues to be higher than that of the United States; and

WHEREAS, Alabama has had and continues to have one of the highest teenage pregnancy rates in the United States; and

WHEREAS, the poor, the working poor and lower middle class women and children often experience difficulty in obtaining obstetric services; and

WHEREAS, this Legislature wishes to join with the Alabama Advisory Council on Maternal and Child Health in commending the members of the Alabama Association of Obstetrics and Gynecology for their exemplary sense of responsibility and commitment toward meeting the needs of indigent maternity patients;

NOW, THEREFORE, BE IT RESOLVED by the Alabama



Legislature that it herewith expresses its appreciation for the commitment and contributions made by the members of the Alabama Association of Obstetrics and Gynecology toward better serving the maternal and child health needs of the people of Alabama;

BE IT FURTHER RESOLVED that copies of this resolution be sent to the President of the Alabama Association of Obstetrics and Gynecology and to the Chairperson of the Alabama Advisory Council on Maternal and Child Health.

Approved May 7, 1984

Time: 4:35 P.M.

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Act No. 84-269

S.J.R. 210—Senator Little

### SENATE JOINT RESOLUTION

COMMENDING MR. JOHN L. PARROTT FOR OUTSTANDING CONTRIBUTIONS TO THE ALABAMA COOPERATIVE EXTENSION SERVICE, AUBURN UNIVERSITY.

WHEREAS, the may 31, 1984, retirement of Mr. John L. Parrott, as Head of Information Services for the Alabama Cooperative Extension Service, at Auburn University, closes out his distinguished 25-year career with the organization; and

WHEREAS, Mr. Parrott, a native of Geraldine, Alabama, and a United States Army veteran of World War II, is a graduate of Auburn University with the B.S. and M.S. degrees in agricultural education; and

WHEREAS, a former teacher of vocational agriculture at Collinsville and Marshall County High Schools, Mr. Parrott joined the Extension Service in 1959 as an assistant county agent in Marshall County and, in 1961, became associated with the state Extension staff in Auburn as radio-television editor; he later served as news editor until 1969 at which time he assumed his retirement position; and

WHEREAS, Mr. Parrott, through a high degree of professionalism, has greatly contributed to the Extension Service; its total image has been significantly strengthened throughout the state and its Extension Information Services unit, under Mr. Parrott's leadership, has come to be regarded as one of the most outstanding in the nation; and

WHEREAS, Mr. Parrott is professionally affiliated with Kappa Delta Pi, Alpha Zeta, Gamma Sigma Delta and the American Asso-

ciation of Agricultural Editors, among others; he further has served as chairman of the Auburn University publications committee, as a member of the Land-Grant University Regional Communications Committee and he is the recipient of the Honorary State Farmer Degree; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we hereby most highly commend Mr. John L. Parrott for distinguished service with the Alabama Cooperative Extension Service at Auburn University, and direct that he receive a copy of this resolution expressing our sincere warm praise, appreciation and esteem.

Approved May 7, 1984

Time: 4:35 P.M.

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Act No. 84-270

S.J.R. 211—Senator Mitchem

### SENATE JOINT RESOLUTION

**DECLARING THE WEEK OF JUNE 3-9, 1984, "ALABAMA POULTRY WEEK".**

**WHEREAS,** the poultry industry is Alabama's largest farm industry, with receipts in excess of \$700 million annually or more than 30 percent of the total agricultural income in Alabama; and

**WHEREAS,** this industry, through its wholesome products and the thousands of jobs it creates for the citizens of this state, adds much to the health, welfare and economic stability of Alabama; and

**WHEREAS,** Alabama ranks third in the nation in broiler production and ninth in the production of eggs; and

**WHEREAS,** Harold Sylvest of Montgomery, Alabama, has served with dedication and distinction as Chairman of the Board of the Alabama Poultry and Egg Association, the cornerstone of this state's poultry industry; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That the week of June 3-9, 1984, is hereby declared "Alabama Poultry Week."

Approved May 7, 1984

Time: 4:35 P.M.

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Act No. 84-271

H. 266—Reps. Holmes, Kennedy,

Buskey (James), Rogers,  
Horn, Buskey (John),  
Bryant, Clark (W),  
Black, McDowell,  
Melton, Spratt, Davis,  
Escott, Thomas

## AN ACT

To amend Section 1-3-8 of the Code of Alabama 1975, relating to observance of state holidays, so as to provide further for such holidays.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1-3-8 of the Code of Alabama 1975 is hereby amended to read as follows:

“§ 1-3-8. (a) Sunday, Christmas day, New Year’s day, Martin Luther King, Jr’s birthday, Robert E. Lee’s birthday, George Washington’s birthday, Thomas Jefferson’s birthday, Mardi Gras, Confederate Memorial day, Jefferson Davis’ birthday, the Fourth day of July, Labor day, Columbus day and Fraternal day, Veterans’ day and the day designated by the governor for public thanksgiving shall each be deemed a holiday. If any holiday falls on Sunday, the following day is the holiday. Veterans’ day shall be observed by the closing of all state, county and municipal offices, all banks located within this state and the public schools on such day. The superintendent of banks, with the concurrence of not less than two members of the state banking board, may authorize any state bank to close on National Memorial day, the last Monday in May, and on such other days as may be declared by the governor to be state holidays in honor of a special event. In the event any authorized state holiday falls on Friday, the superintendent of banks may authorize the Saturday following that Friday to be a holiday. The superintendent may also authorize the closing of banks at 12:00 noon on the day prior to Christmas day, and the day prior to New Year’s day, if such days fall on business days.

“(b) Of the above enumerated legal public holidays, the following shall be observed on the dates herein prescribed:

“(1) Robert E. Lee’s birthday — the third Monday in January.

“(2) George Washington’s birthday — the third Monday in February.

“(3) Confederate Memorial day — the fourth Monday in April.

“(4) Jefferson Davis’ birthday — the first Monday in June.

“(5) Columbus day and Fraternal day — the second Monday in October.

“(6) Veterans’ day — the eleventh day of November.

“(7) Martin Luther King, Jr.’s birthday — the third Monday in January.”

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 8, 1984

Time: 3:40 P.M.

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Act No. 84-272

H. 708—Rep. Campbell

### AN ACT

To provide for the voluntary dissolution of solvent subsidiary corporations organized under Alabama law; to provide for the transfer of rights and properties and assumption of liabilities and duties thereof; to provide for the execution, contents and filing of articles of dissolution; to provide for the issuance of a certificate of dissolution, the effect and time of effectiveness thereof; to provide that this act shall be included in the Code of Alabama 1975 as Section 10-2A-181A; and to provide for an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** 10-2A-181A Voluntary Dissolution of Subsidiary Corporation.

(a) Any solvent corporation organized under Alabama law (the “subsidiary”), wholly owned by another corporation, wherever organized (the “parent”), may be dissolved voluntarily and all of its rights and properties transferred and all of its liabilities and duties assumed by the parent or any other solvent corporation (wherever organized) wholly owned by the parent or subsidiary, with the effect upon the parent or other corporation provided in Section 10-2A-145(b)(4)-(5), by the subsidiary and parent executing and filing articles of dissolution setting forth: (1) a statement that the subsidiary is to be dissolved and all of its rights and properties are to be transferred and all of its liabilities and duties assumed by the parent or other wholly owned corporation in accordance with this section; (2) the names and addresses of the corporations involved in the dissolution, transfer and assumption and a copy of resolutions of their respective boards of directors approving the same; (3) the time when

the dissolution of the subsidiary and the transfer and assumption simultaneously shall become effective; and (4) such other provisions as are deemed necessary or desirable.

(b) Two copies of the articles of dissolution shall be filed and a certificate of dissolution issued in accordance with, and with the effect upon the subsidiary provided in Section 10-2A-191, except that the dissolution, transfer and assumption shall become effective at the time specified in the articles of dissolution. A certified copy of the articles and certificate of dissolution shall be forwarded by the probate judge for filing with the Secretary of State.

**Section 2.** Section 1 of this act shall be included in the Code of Alabama 1975 as a new section designated as Section 10-2A-181A.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved May 8, 1984

Time: 3:40 P.M.

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Act No. 84-273

S. 418—Senator Mitchem

### AN ACT

To amend Sections 41-7-1 and 41-7-5, Code of Alabama 1975, which established the bureau of publicity and information, so as to change the name to the bureau of tourism and travel.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 41-7-1 and 41-7-5, Code of Alabama 1975, are hereby amended to read as follows:

“§ 41-7-1. (a) There is created hereby a state bureau of tourism and travel, hereinafter referred to as the bureau, composed of a division of records and reports and such other divisions as the director determines to be necessary.

“(b) The bureau shall, with the advice and assistance of the advisory board provided for in section 41-7-3, have exclusive power and authority to plan and conduct all state programs of information and publicity designed to attract tourists to the state of Alabama. It shall be the duty of the principal administrator of each department, board, commission, institution, agency and office, upon request, to assist the director of publicity in preparing news items of general interest relating to tourism.

“§ 41-7-5. The director of the bureau of tourism and travel

may, with the approval of the governor, enter into contracts and agreements with the organization known as the southern travel directors council, a regional travel advertising and promotion agency, for the purpose of expanding and extending the state's tourist advertising program. The director may, with the governor's approval, spend a sum not exceeding \$15,000.00 per annum for the support of the council, such expenditures to be made from legislative appropriations for tourist advertising."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 4, 1984

Time: 3:20 P.M.

Act No. 84-274

S. 201—Senator Bailey

### AN ACT

Relating to the promotion of the production, research, distribution, marketing, use, improvement and sale of soybeans and soybean products; to amend Section 2-8-89 of the Code of Alabama 1975, to provide that the assessment levied upon the sale of soybeans shall not exceed two cents per net bushel after deductions for foreign material on any soybeans sold by producers.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 2-8-89 of the Code of Alabama 1975 is hereby amended to read as follows:

"§ 2-8-89. If in any referendum held under the provisions of this article a majority or more of the soybean producers who are eligible to participate and who actually vote therein shall vote in the affirmative and in favor of the levying and collection of the assessment proposed in such referendum, then such assessment shall be levied and collected in the manner provided in this article. Following the referendum and within 10 days thereafter, the certified association shall canvass, tabulate and publicly declare and announce the results thereof. The amount of the assessment levied upon the sale of soybeans shall not exceed two cents per net bushel after deductions for foreign material on any soybeans sold by the producers thereof."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-275

S. 129—Senators Bedsole, Barron, Amari  
and Corbett

### AN ACT

To prescribe certain qualifications for persons representing themselves to the public as dietitians, nutritionists or registered dietitians or other similar titles; and to prescribe penalties for violations of this Act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** (a) Any person representing himself or herself as a dietitian, nutritionist, or dietitian/nutritionist shall first meet the qualifications set forth below in (1) through (4) of this Section 1.(a) or (5) below of this Section 1.(a):

(1) Prior to the enactment hereof, such persons shall have been granted the right to use the terms "dietitian/nutritionist" or "R.D." by the American Dietetic Association or the terms "nutritionist" or "dietitian" by the United States Government as shall have been specifically allowed by an Act of Congress or shall have been granted said right by a state government, or agency thereof, according to powers specifically allowed by appropriate legislative branches.

(2) Be 19 years of age or older.

(3) Have satisfactorily completed appropriate academic requirements in the field of dietetics and related disciplines as approved by the American Dietetic Association and have received a baccalaureate or higher degree from a college or university accredited by the Southern Association of Colleges and Universities or similar accreditation agency.

(4) Have satisfactorily completed a program of supervised experience approved by the Commission on Dietetic Registration of the American Dietetic Association, or

(5) Have received a Master's Degree or Doctorate Degree in Human Nutrition, Nutrition Education, Foods and Nutrition, or Public Health Nutrition from a college or university accredited by the Southern Association of Colleges and Universities or similar accreditation agency; or have received a Master's Degree or Doctorate Degree in a related field that meets eligibility requirements of the Commission on Dietetic Registration of the American Dietetic Association; or shall maintain membership in one of the following organi-

zations: American Institute of Nutrition (AIN), American Society for Clinical Nutrition (ASCN); American Board of Nutrition (ABN).

(b) Any person representing himself or herself as a "registered dietitian" shall meet the following qualifications:

(1) Possess all of the qualifications required for Section (1)(a)(1.) through (4.) above and

(2) Have satisfactorily completed an examination since the inception of same propounded and administered under the auspices of the Commission on Dietetic Registration of the American Dietetic Association, and

(3) Have satisfactorily completed courses of continuing education as currently required by the Commission on Dietetic Registration of the American Dietetic Association.

**Section 2.** In addition to other rights granted a dietitian/nutritionist or registered dietitian, by whatever name, and notwithstanding any other provision of law, a dietitian/nutritionist or registered dietitian meeting the qualifications set forth in Section 1, above, may, upon referral by a health care provider authorized to prescribe dietary treatments,

(i) assess the nutritional needs of individuals and groups, and determine the source of constraints in the various practice settings;

(ii) establish priorities, goals, and objectives that meet nutritional needs and are consistent with available resources and constraints;

(iii) provide nutrition counseling in both health and disease;

(iv) develop, implement and manage systems in nutrition care;

(v) evaluate the needs, make changes and maintain appropriate standards of quality in food and nutrition services

for individuals or groups of patients in licensed institutional facilities or in private office settings.

**Section 3.** It is a Class C misdemeanor for any person not meeting the criteria of Section 1, to use, in connection with his or her name or place of business, the word "dietitian," "dietician," "nutritionist," "registered dietitian," "registered dietician" or the letters "D.," "R.D.," or any other words, letters, abbreviations, or insignia indicating or implying that the person is a dietitian, nutritionist, or registered dietitian, or to represent, in any way, orally, in writing, in print or by signature, directly or by implication, that he or she is a dietitian, nutritionist or a registered dietitian.

**Section 4.** Any person employed by a licensed health care fa-



cility and who does not meet the requirements of Section 1(a), above, on the effective date of this Act may continue to represent himself or herself as a dietitian/nutritionist while employed by said licensed health care facility so long as he or she complies with the continuing education requirements of Section 1(b)(3), above.

**Section 5.** The provisions of this Act are separate and severable; therefore, if any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the remaining part(s) of said Act.

**Section 6.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 7.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-276

S. 12—Senators Smith (J), Bennett  
and Hilliard

### AN ACT

To prohibit the acts of shooting or discharging a firearm, explosive or other weapon which discharges a dangerous projectile into any occupied or unoccupied dwelling or building or railroad locomotive or railroad car, aircraft, automobile, truck or watercraft and to prescribe felony punishment for such acts.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** No person shall shoot or discharge a firearm, explosive or other weapon which discharges a dangerous projectile into any occupied or unoccupied dwelling or building or railroad locomotive or railroad car, aircraft, automobile, truck or watercraft in this state.

**Section 2.** (a) Any person who commits an act prohibited by Section 2 hereof with respect to an occupied dwelling or building or railroad locomotive or railroad car, aircraft, automobile, truck or watercraft shall be deemed guilty of a Class B felony as defined by the state criminal code, and upon conviction, shall be punished as prescribed by law.

(b) Any person who commits any act prohibited by Section 1 hereof with respect to an unoccupied dwelling or building or railroad locomotive or railroad car, aircraft, automobile, truck or watercraft shall be deemed guilty of a Class C felony as defined by the state

criminal code, and upon conviction, shall be punished as prescribed by law.

**Section 3.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 7, 1984

Time: 4:35 P.M.

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Act No. 84-277

S.J.R. 133—Senator Dixon

### SENATE JOINT RESOLUTION

#### CREATING THE CONTRACT REVIEW PERMANENT LEGISLATIVE OVERSIGHT COMMITTEE.

WHEREAS, It has come to the attention of the Alabama Legislature that public officials, both elected and appointed, have the legal authority to encumber the funds of the State of Alabama through the execution of legal and binding contracts; and

WHEREAS, That authority has resulted in an encumbrance of \$29,811,481.00, exclusive of property rental leases, contract employees and special assistant attorney's general, for the 1983-84 fiscal year; and

WHEREAS, It is the stated intent and desire of the Alabama Legislature to assure that the Alabama taxpayer that it is our recognized responsibility to do our utmost to assure the citizens of this state that the tax dollars they give to fund the services the State provides are spent in the most effective manner; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created the Contract Review Permanent Legislative Oversight Committee. Said Committee shall be composed of the Chairman of the Senate Finance and Taxation Committee and the Chairman of the House Ways and Means Committee, and three additional members of the Senate to be appointed by the President of the Senate and three additional members of the House, to be appointed by the Speaker of the House.

BE IT FURTHER RESOLVED, That each member of the Committee shall be entitled to regular legislative compensation, per

diem and travel expenses for each day he or she attends a meeting of the Committee, which shall be paid out of the funds appropriated to the use of the Legislature, on warrants drawn on the state comptroller upon requisition signed by the Committee's chairman, provided, however, that members shall not receive additional compensation or per diem when the Legislature is in session. Clerical help shall be furnished by the Secretary of the Senate and the Clerk of the House. The Committee shall have the responsibility of reviewing any existing or new contracts for personal services to be paid out of appropriated funds, federal or state, on a state warrant issued as recompense for those services. The Committee shall have the power to issue subpoenas for any witnesses and to require the production of any documents or contracts it feels it needs to examine in the conduct of its duties.

The Committee shall organize itself at the first meeting and elect from among its membership a Chairman and a Vice-Chairman.

BE IT FURTHER RESOLVED, That in no event shall the expenses of the Committee exceed more than \$10,000.00 annually in carrying out its responsibility.

Approved May 9, 1984

Time: 4:30 P.M.

Act No. 84-278

S. 470—Senators Mitchem and Barron

# AN ACT

To provide for the criminal offense of theft of trade secrets and trademarks and to prescribe penalty for conviction of such offense.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** (a) For purposes of this act:

(1) "Article" means any object, material, device, or substance or any copy thereof, including a writing, recording, drawing, sample, specimen, prototype, model, photograph, microorganism, blueprint, or map.

(2) "Copy" means a facsimile, replica, photograph, or other reproduction of an article or a note, drawing, or sketch made of or from an article.

(3) "Representing" means describing, depicting, containing, constituting, reflecting, or recording.

(4) "Trade secret" means the whole or any part of any scientific or technical information, design, process, procedure, formula, or

improvement that has value and that the owner has taken measures to prevent from becoming available to persons other than those selected by the owner to have access for limited purposes.

(5) "Trademark" means any word, name, symbol, or device adopted and used by any person or business entity to identify his goods or services, and to distinguish them from the goods or services of others.

(b) A person commits the crime of "theft of trade secrets or trademarks" if, without the owner's effective consent, he knowingly:

- (1) Steals a trade secret;
- (2) Makes a copy of an article representing a trade secret;
- (3) Communicates or transmits a trade secret;
- (4) Makes a copy or reproduction of a trademark for any commercial purpose; or
- (5) Sells an article on which a trademark is reproduced knowing said trademark was used without the owner's consent.

(c) Theft of trade secrets or trademarks is a Class C felony.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-279

S. 428—Senators Drinkard and  
deGraffenried

## AN ACT

To authorize fiduciaries to invest in and hold, in addition to any other investments authorized by law, interests in any common trust fund or collective investment fund maintained by any financial institution having trust powers or in securities of or other interests in any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, provided that the portfolio of such fund, company or trust is limited to the classes of trust investments allowed by law.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The classes of investments authorized by section 19-3-120 of the Code of Alabama, 1975, or by any other provision of law for the investment of funds held by a trustee, executor, administrator, guardian or other fiduciary may be invested in and held directly or in the form of (a) interests, however evidenced, in any common trust fund or other collective investment fund maintained by any national or state chartered bank, trust company or savings and loan association having trust powers, or (b) securities of or other interests in any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, as from time to time amended, so long as the portfolio or portfolios of such common trust fund, collective investment fund or investment company or investment trust are limited by the provisions of the instrument creating the same or otherwise to one or more of the classes of investments authorized by section 19-3-120 of the Code of Alabama, 1975, or by any other provision of law allowing direct investment in such class of investments by a trustee, executor, administrator, guardian or other fiduciary. This section shall not, insofar as such authorization may be prohibited by the Constitution of this State, authorize the investment of trust funds in the stock of any private corporations.

**Section 2.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 4.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-280

S. 425—Senators Corbett, Cooley,  
Drinkard, Teague,  
Langford, Bedford,  
Bennett, Strong, Denton,  
Foshee and Hand

#### AN ACT

To provide for certain payroll deductions for full-time firefighters employed by political subdivisions in this state.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** All laws to the contrary notwithstanding, every political subdivision of this state which employs full-time firefighters shall adopt policies or regulations which will provide for deductions from the salaries of its firefighters or groups of firefighters whenever a written request for such deductions is submitted to the governing body of the (employer) political subdivision. Such deductions shall be made on a monthly basis and shall be remitted to the appropriate company, association or organization as specified by the employees within ten (10) days following each deduction. Such deductions may be made for, but not limited to, tax sheltered annuities, membership dues, the Public Employees' Individual Retirement Account Fund, voluntary contributions and group insurance premiums. Deductions for membership dues shall be made based upon membership lists and forms provided by the employees' organization. Such lists are to be corrected, updated and returned to the employees' designated organization(s) not later than April 15 of each year. The 1984 dues and voluntary contribution authorized, with appropriate yearly adjustments, shall be deducted for each succeeding year unless the employee revokes the deductions in writing on or before January 2 of that year. Voluntary contributions may be revoked by giving a thirty (30) day notice in writing. New authorization shall be permitted to be added during the months of April, August and December of each year. Upon termination, amounts owed under the authorization of the employee shall be deducted from the employee's final pay due.

**Section 2.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This Act shall become effective ninety (90) days after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 7, 1984

Time: 4:35 P.M.

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Act No. 84-281

S. 397—Senator Denton

AN ACT

To amend Section 22-21-260 of the Code of Alabama 1975, so as to exempt a Veterans Nursing Home operated by the Department of Veterans Affairs from definition as a health care facility.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 22-21-260 of the Code of Alabama 1975 is hereby amended to read as follows:

“§ 22-21-260.

“As used in this article, the following words and terms, and the plurals thereof, shall have the meanings ascribed to them in this section, unless otherwise required by their respective context:

“(1) **STATE HEALTH PLANNING AND DEVELOPMENT AGENCY (SHPDA).** An agency of the state of Alabama which is designated by the governor as the sole state health planning and development agency, which shall consist of three consumers, three providers and three representatives of the governor who all shall serve staggered terms and all be appointed by the governor. Where used in this article, the terms, ‘state agency,’ and ‘SHPDA,’ shall be synonymous and may be used interchangeably.

“(2) **STATEWIDE HEALTH COORDINATING COUNCIL.** A council, appointed by the governor, established pursuant to the provisions of Title XV, section 1524, of the Public Health Service Act (42 USC 300m-3) and sections 22-4-7 and 22-4-8 to advise the state health planning and development agency on matters relating to health planning and resource development and to perform such other functions as may be delegated to it.

“(3) **HEALTH SERVICE AREA.** A geographical area designated by the governor, as being appropriate for effective planning and development of health services.

“(4) **STATE HEALTH PLAN.** A comprehensive plan which is prepared triennially and reviewed at least annually and revised as necessary by the statewide health coordinating council, with the assistance of the state health planning and development agency, and approved by the Governor.

“The state health plan shall provide for the development of health programs and resources to assure that quality health services will be available and accessible in a manner which assures continuity of care, at reasonable costs, for all residents of the state.

“(5) **HEALTH CARE FACILITY.** Such term shall include: General and specialized hospitals, including tuberculosis, psychiatric, long-term care and other types of hospitals, and related facilities such as laboratories, out-patient clinics and central service facilities operated in connection with hospitals; skilled nursing facilities; intermediate care facilities; rehabilitation centers; public health centers; facilities for surgical treatment of patients not requiring hospitalization; kidney disease treatment centers, including free-standing

hemodialysis units; community mental health centers and related facilities; facilities for the developmentally disabled; home health agencies; and health maintenance organizations. The term 'health care facility' shall not include the offices of private physicians or dentists, whether for individual or group practice and regardless of ownership, or Christian Science sanatoriums operated or listed and certified by the First Church of Christ, Scientist, Boston, Massachusetts, or Veterans Nursing Home operated by the Department of Veterans Affairs.

"(6) **HEALTH SERVICES.** Clinically related (i.e., diagnostic, curative or rehabilitative) services, including alcohol, drug abuse and mental health services customarily furnished on either an in-patient or out-patient basis by health care facilities, but not including the lawful practice of any profession or vocation conducted independently of a health care facility and in accordance with applicable licensing laws of this state.

"(7) **CAPITAL EXPENDITURE.** An expenditure, including a force account expenditure (i.e., an expenditure for a construction project undertaken by the facility as its own contractor), which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance and which:

"a. Exceeds \$200,000.00 (indexed) for major medical equipment; \$200,000 (indexed) for new annual operating costs; \$600,000 (indexed) for any other capital expenditure;

"b. Changes the bed capacity of the facility with respect to which such expenditure is made; or

"c. Substantially changes the health services of the facility with respect to which such expenditure is made.

"(8) **PERSON.** Any person, firm, partnership, association, joint venture or corporation, the state of Alabama and its political subdivisions or parts thereof and any agencies or instrumentalities and any combination of persons herein specified, but 'person' shall not include the United States or any agency or instrumentality thereof, except in the case of voluntary submission to the regulations established by this article.

"(9) **APPLICANT.** Any person, as defined in this section, who files an application for a certificate of need.

"(10) **ACQUISITION.** Such term shall mean and include obtaining the legal equitable title to a freehold or leasehold estate or otherwise obtaining the substantial benefit of such titles or estates, whether by purchase, lease, loan or sufferance, gift, devise, legacy, settlement of a trust or means whatever, and shall include any act of



acquisition. The term 'acquisition' shall not mean or include any conveyance, or creation of any lien or security interest by mortgage, deed of trust, security agreement or similar financing instrument, nor shall it mean or include any transfer of title or rights as a result of the foreclosure, or conveyance or transfer in lieu of the foreclosure, of any such mortgage, deed of trust, security agreement or similar financing instrument nor shall it mean or include any gift, devise, legacy, settlement of trust, or other transfer of the legal or equitable title of an interest specified herein above by a natural person to any member of such person's immediate family. For the purposes of this section 'immediate family' shall mean the spouse of the grantor or transferor and any other person related to the grantor or transferor to the fourth degree of kindred as such degrees are computed according to law.

"(11) CONSTRUCTION. Such term shall mean and include actual commencement, with bona fide intention of completing the same, or completion of the construction, erection, remodeling, relocation, excavation or fabrication of any real property constituting a facility under this article, and the term 'construct' shall mean and include any act of construction. 'Ground breaking ceremony,' 'receipt of bids,' 'receipt of quotation' or similar action that will permit unilateral termination without penalty shall not be considered 'construction.'

"(12) FIRM COMMITMENT OR OBLIGATION. Such terms shall mean and include:

"a. Any executed, enforceable, unconditional written agreement or contract not subject to unilateral cancellation for the acquisition or construction of a health care facility or purchase of equipment therefor;

"b. Actual construction of facilities peculiarly adapted to the furnishing of one or more particular services and with the bona fide intention of furnishing such service or services; and

"c. Any executed, unconditional written agreement not subject to unilateral cancellation for the bona fide purpose of furnishing one or more services.

"(13) INSTITUTIONAL HEALTH SERVICES. Health services provided in or through health care facilities or health maintenance organizations, including the entities in or through which such services are provided.

"(14) MODERNIZATION. The alteration, repair, remodeling, replacement and renovation of existing buildings including initial equipment thereof and the replacement of equipment of existing buildings.

“(15) TO OFFER. Such term, when used in connection with health services, means that the health care facility or health maintenance organization holds itself out as capable of providing, or as having the means for the provision of, specified health services.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-282

S. 362—Senator Foshee

### AN ACT

To amend Sections 34-27-2, 34-27-11, 34-27-31, 34-27-50, 34-27-51, 34-27-60 and 34-27-66 of the Code of Alabama 1975 which regulate real estate and timesharing brokers, salesmen and transactions, so as to provide further therefor and to provide further for penalties.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 34-27-2, 34-27-31, 34-27-50, 34-27-51, 34-27-60 and 34-27-66, Code of Alabama 1975, are hereby amended to read as follows:

“§34-27-2.

“(a) for purposes of articles 1 and 2 of this chapter, the following terms shall have the respective meanings ascribed by this section:

“(1) PERSON. Such term includes partnerships and corporations.

“(2) REAL ESTATE BROKER. Any person who, for a fee, commission or other valuable consideration, or who, with the intention or expectation of receiving or collecting a fee, commission or other valuable consideration, provides rent list, or lists, sells, purchases, exchanges, rents, leases, options or auctions real estate or the improvements thereon, or negotiates or attempts to negotiate any real estate transaction, or advertises or holds himself out as engaged in the real estate business.

“(3) QUALIFYING BROKER. A licensed broker making application for a broker's license for a corporation, partnership, or branch office; a broker licensed to do business as a sole proprietorship.

“(4) ASSOCIATE BROKER. A person licensed as a real es-

tate broker and engaged by or on behalf of a licensed qualifying broker to do any act or deal in any activity regulated by this chapter, for compensation or otherwise.

“(5) **REAL ESTATE SALESMAN.** A person licensed as a real estate salesman and engaged by or on behalf of a licensed qualifying broker to do any act or deal in any activity regulated by this chapter, for compensation or otherwise.

“(6) **ENGAGE.** The term engage or any derivative thereof, shall include all types of work relationships between a real estate qualifying broker and an associate broker or real estate salesman whether such relationship is master-servant, independent contractor, or otherwise.

“(7) **INACTIVE STATUS.** The terms “active” and “inactive” refer to the status of the license rather than the level of activity of the licensee. An inactive license is one being held by the Alabama real estate commission office at the request of the licensee.

“(8) **LICENSE PERIOD.** That period of time beginning on October 1 of a year designated by the real estate commission to be the first year of a license period and ending on midnight September 30 of the year designated by the commission as the final year of that license period. A license period may be one or more years in length.

“(b) The real estate licensing requirements of articles 1 and 2 of this chapter shall not be applicable to the following activities. Specifically, the activities of any:

“(1) Person who, as a bona fide owner or lessor, is performing any act with reference to property owned or leased where such acts are performed as an incident to the management of such property and the investment therein;

“(2) Attorney-at-law performing his duties as an attorney-at-law;

“(3) Person not acting directly or indirectly for any compensation who is acting in good faith under a duly executed power of attorney for the owner for the purpose of closing a sale, purchase, lease or exchange of real estate;

“(4) State or national financing institution or any person acting as a receiver, a commissioner acting under order of court, trustee, administrator, executor or guardian under a court order or under a deed of trust or will;

“(5) Public officer performing his official duties;

“(6) Person buying real estate and acquiring title in his name, in his spouse's name, in his son's name or in his daughter's name or

selling or leasing such real estate without compensation for his own account or for the account of his spouse, his son or his daughter;

“(7) Clerical or office help performing general clerical or office duties for a broker; provided, that such help shall not physically show listed property; or

“(8) Person acting as the resident manager for the owner of, or an employee acting as the resident manager for a broker managing, an apartment building, duplex, apartment complex or court when such resident manager resides on the premises and is engaged in the leasing of property in connection with his employment;

“(9) Person licensed as a time share seller under article 3 of this chapter performing any act consistent with the provisions of article 3 of this chapter; provided, that any qualifying broker for a registered vacation timesharing plan must also be licensed by the Alabama real estate commission as a real estate broker.

“(c) The reporting requirements of articles 1 and 2 of this chapter shall pertain to the real estate licensing requirements of this chapter, and shall not pertain to the timeshare sales license provisions contained in article 3.

“§ 34-27-11.

“(a) Any person violating a provision of articles 1 or 2 of this chapter shall, upon conviction of a first violation thereof, if a person, be punished by a fine of not less than \$100.00 nor more than \$500.00, or by imprisonment for a term not to exceed 90 days, or both, and, if a corporation, be punished by a fine of not more than \$1,000.00. Upon conviction of a second or subsequent violation, the violator, if a person, shall be punished by a fine of not less than \$500.00 nor more than \$1,000.00 or by imprisonment for a term not to exceed two years, or both, and, if a corporation, be punished by a fine of not less than \$2,000.00 nor more than \$5,000.00. Any officer or agent of a corporation, or any member or agent of a partnership who shall personally participate in or be accessory to any violation of this chapter by such corporation or partnership shall be subject to the penalties herein prescribed for individuals. Any court of competent jurisdiction shall have full power to try any violation of this chapter, and upon conviction, the court may impose the penalties herein provided for in this section.

“(b) Whoever willfully violates any lawful rule, regulation or order of the commission or whoever is adjudged guilty of violating any provision of articles 1 or 2 of this chapter, after a hearing as provided in section 34-27-37, or after entering a plea of guilty in lieu of such hearing, may be officially reprimanded by the commission or may be required by the commission to pay a penalty of not less than

\$25.00 nor more than \$500.00 to be assessed and collected by the commission; or, if a licensee, may have his license suspended or revoked and, in addition, be required by the commission to pay a penalty of not less than \$25.00 nor more than \$500.00. Any party penalized under this subsection shall have the right of review as provided for in section 34-27-38."

"§ 34-27-31.

"(a) Licenses shall be granted only to, and held only by, persons who are trustworthy and competent to transact the business of a real estate broker or real estate salesman in such manner as to safeguard the interest of the public. Every applicant for a license as a real estate broker or real estate salesman should be a person who has not been convicted of a felony or a criminal offense involving moral turpitude in this or any other state. The applicant shall reveal on his application any convictions. The applicant must be a person whose application or license has not been rejected or revoked in this state or any other state within two years prior to date of application on any grounds other than failure to pass the written examination. Each applicant for a license shall be at least 19 years of age, and shall be a citizen of the United States or shall possess a certification of lawful permanent residence issued by the immigration and naturalization bureau of the United States government.

"(b) Each qualifying broker must sign a statement that he accepts the responsibility for the actions covered by this chapter of any and all salesmen or associate brokers licensed under him or any corporation, partnership, or branch office for which he is the qualifying broker. It shall be the duty and responsibility of every qualifying broker to see that all transactions of every licensee engaged by him or any corporation, partnership or branch office for which he is the qualifying broker comply with the provisions of this chapter. The qualifying broker shall be responsible to any injured party for the damage caused to such party by any violation of this chapter by any licensee engaged by him. This subsection in no wise relieves any licensee or any corporation, partnership or branch office from any liability that he or it would have without this chapter.

"(c) The commission is authorized to establish and maintain a real estate recovery fund from which any person, except real estate licensees or bonding companies when they are not principals in a real estate transaction, aggrieved by an act or omission of a duly licensed broker, salesman, corporation, partnership or branch office, which is in violation of the provisions of this chapter or the rules and regulations promulgated pursuant thereto, may recover, by order of the circuit court or other court having competent jurisdiction where the violation occurred, for only actual or compensatory dam-

ages, and not including interest and costs sustained by the act, representation, transaction or conduct; provided, that nothing shall be construed to obligate the fund for more than \$25,000.00 per transaction regardless of the number of persons aggrieved or parcels or real estate involved in such transaction; nor shall any provision hereof be construed to prohibit any person from exercising the option of purchasing a bond in the open market payable to the state of Alabama in the amount of \$50,000.00. Said bond shall provide coverage equivalent to the coverage provided by the real estate recovery fund. In addition:

“(1) This section shall not be construed to obligate the fund for the acts or omissions of a licensed broker, salesman, corporation, partnership or branch office while acting on his or its own behalf in property owned by him or it, respectively, in which the licensee has an interest or for the acts or omissions of inactive licensees. Nor shall the fund be obligated for any judgment or settlement resulting from an act or omission committed in violation of this chapter or any chapter governing the issuance of time-sharing sales licenses when such act or omission was done in conjunction with the marketing or development of a time-sharing project and the party committing the act or omission was licensed under the time-sharing license law.

“(2) The liability of the fund for the acts or omissions of a duly licensed broker, salesman, corporation, partnership or branch office, when acting as such, is terminated upon the issuance of court orders authorizing payments from the fund for judgments, or any unsatisfied portion of judgments, in an aggregate amount of \$50,000.00 on behalf of such licensee.

“When any person makes application for an original license to practice as a broker, salesman, corporation, partnership or branch office, he shall pay, in addition to his original license fee, a fee of \$30.00 for deposit in the real estate recovery fund. In the event the commission does not issue the license, this fee shall be returned to the applicant.

“(d) if, during any given fiscal year, the balance remaining in the real estate recovery fund is less than \$500,000.00, every licensee, shall pay a fee of \$30.00 for deposit in the real estate recovery fund unless his license is on inactive status. If any licensee who is exempted from paying the real estate recovery fund fee by virtue of his license being on inactive status should activate his license during such a license period, he shall pay at the time his license is activated a fee of \$30.00. No licensee shall be required to pay into the recovery fund more than \$30.00 per license for any one fiscal year.

“(e) (1) No action for a judgment which subsequently results in

an order for collection from the real estate recovery fund shall be started later than as provided by appropriate Alabama statute of limitation of action thereon. When any aggrieved person commences action for a judgment which may result in collection from the recovery fund, the aggrieved person shall notify the commission in writing, by certified mail, return receipt requested, to this effect at the time of the commencement of such action. The commission is hereby authorized to employ legal counsel and shall have the right to intervene in and defend against any such action. Any expenses incurred will be paid from the recovery fund. The commission is further authorized to settle or compromise said claim, and in that event, the claim may be paid directly from the recovery fund.

“(2) When any aggrieved person recovers a valid judgment in any court of competent jurisdiction against any licensee, for any act or omission which is in violation of the provisions of this chapter or the rules or regulations promulgated pursuant thereto, which occurred on or after October 1, 1979, the aggrieved person may, upon the termination of all proceedings, including reviews and appeals in connection with the judgment, file a verified claim in the court in which the judgment was entered and, upon 10 days written notice to the commission, may apply to the court for an order directing payment out of the real estate recovery fund of the amount unpaid upon the judgment, subject to the limitations stated in this section.

“(3) The court shall proceed upon such application in a summary manner and, upon the hearing thereof, the aggrieved person shall be required to show:

“a. He is not a spouse of debtor, or the personal representative of such spouse;

“b. He has obtained a judgment, as set out in subdivision (2) of subsection (e) of this section, stating the amount thereof and the amount owing thereon at the date of the application, and, that in such action, he had joined any and all bonding companies which issued corporate surety bonds to the judgment debtor principal and all other necessary parties;

“c. That the following items, if any, as recovered by him, have been applied to the actual compensatory damages awarded by the court:

“1. Any amount recovered from the judgment debtor or debtors;

“2. Any amount recovered from the bonding company or companies;

"3. Any amount recovered in out-of-court settlements as to particular defendants.

"(4) The court shall make an order directed to the commission requiring payment from the real estate recovery fund of whatever sum it shall find to be payable upon the claim, pursuant to the provisions of and in accordance with the limitations contained in this section, if the court is satisfied, upon the hearing, of the truth of all matters required to be shown by the aggrieved person.

"(5) Should the commission pay from the real estate recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, the license of such licensee may be terminated by the Commission, upon the issuance of a court order authorizing payment from the real estate recovery fund, and no such licensee shall be eligible to receive a new license, at the discretion of the commission, until he has repaid in full, plus interest at the rate of 10 percent a year, the amount paid from the real estate recovery fund on his account. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided, in this subdivision.

"(6) If, at any time, the money deposited in the real estate recovery fund is insufficient to satisfy any duly authorized claim or portion thereof, the commission shall, when sufficient money has been deposited in the real estate recovery fund, satisfy such unpaid claims or portions thereof in the order that such claims or portions thereof were originally filed, plus accumulated interest at the rate of six percent a year.

"(f) The sums received by the commission pursuant to any provisions of this section shall be deposited into the state treasury and held in a special fund known as the real estate recovery fund, and shall be held by the commission in trust for carrying out the purposes of this section. These funds may be invested by the state treasurer in any investments which are legal for domestic life insurance companies under the laws of this state. Any interest or other income from investments of the fund shall be deposited in equal shares, as it accrues, into the general fund of the state treasury and the real estate commission fund.

"(g) It shall be unlawful for any person or his agent to file with the commission any notice, statement or other document required under the provisions of this section which is false, untrue or contains any material misstatement of facts and shall constitute a misdemeanor.

"(h) When the commission receives notice, as provided in subsection (e), the commission may enter an appearance, file an answer,



appear at the court hearing, defend against the action or take whatever other action it may deem appropriate on the behalf and in the name of the defendant and take recourse through any appropriate method of review on behalf and in the name of the defendant.

“(i) When, upon the order of the court, the commission has paid from the real estate recovery fund any sum to the judgment creditor, the commission shall be subrogated to all the rights of the judgment creditor, and the judgment creditor shall assign all his rights, title and interest in the judgment to the commission, and any amount and interest so recovered shall be deposited to the fund.

“(j) The failure of an aggrieved person to comply with all of the provisions of this section shall constitute a waiver of any rights hereunder.

“(k) If at any time there is rendered a final judgment against a licensee under this chapter, the license of the principal may be suspended. A judgment shall be considered final when no further relief is available from said judgment in the appeal courts of Alabama. In case of such suspension of license, the commission shall give notice to the licensee that his license is suspended, and said licensee shall deliver his license to the commission for disposition. Upon request by the suspended licensee, the commission will set a date designating the date, time and place thereon for a hearing on the question of whether the license under suspension should be revoked, whether the suspension should be continued or whether the suspension should be terminated upon the fulfillment of reasonable conditions imposed by the commission. The hearing shall be conducted as hereinafter provided. No salesman or broker whose license has been revoked may apply for a license hereunder until at least two years after the date of such revocation and, in the event of such application for reinstatement, he shall meet all the requirements imposed upon an original applicant for a license under this chapter and shall not be relicensed unless a majority of the commission votes in favor of such relicensing.

“(l) It shall be the duty of every licensee, within 10 days after receipt by him of a citation issued to him from any court of competent jurisdiction or within 10 days from the institution of any prosecution against him, the subject matter of which involved a transaction, to which he was party, of any real estate matter or which involved the good will of an existing real estate business, to notify the commission of such citation or prosecution in writing. Such notification shall be by United States registered or certified mail and shall include a copy of any complaint naming the licensee as defendant, or in the event of a criminal charge, the specific charge made against the licensee. For failure to give such notification within the

10 day period, the commission may suspend the license of such licensee from the date on which he receives written notice of suspension from the commission until he is reinstated by the commission or in lieu or in addition to such suspension, the commission may impose an official reprimand or a fine of not less than \$25.00 nor more than \$500.00.

“(m) It shall be the duty of every licensee to report to the commission within 10 days after receipt by him of notice of such, the rendering of a judgment against him, or of a criminal verdict against him, or of the withdrawal or dismissal of any civil or criminal action pending against him when such judgment, verdict, withdrawal or dismissal concerned a legal action involving a real estate matter or the good will of a real estate company. Such notification shall be in writing and shall include a copy of the court order or other official document by which the licensee was notified of the judgment, verdict, withdrawal or dismissal. The notification to the commission shall be by United States certified mail or registered mail. For failure to give such notification within the 10 day period, the commission may suspend the license of such licensee from the date on which he receives written notice of the suspension from the commission until the license is reinstated by the commission, or in lieu of or in addition to such suspension, the commission may impose an official reprimand or a fine of not less than \$25.00 nor more than \$500.00.

“§ 34-27-50.

“For the purposes of this article the following terms shall have the meaning respectively ascribed to them by this section:

“(1) ACCOMMODATIONS. Any hotel or motel room, condominium, or cooperative unit, cabin, lodge, apartment or any other private or commercial structure designed for occupancy by one or more individuals or any recreational vehicle campsite or campground.

“(2) BUSINESS ENTITY. Any individual, corporation, firm, association, joint venture, partnership, trust, estate, business trust, syndicate, fiduciary, and any other group or combination which engages in acts or practices in any trade or commerce.

“(3) CONTRACT. Any contract, promissory note, credit agreement, negotiable instrument, lease, use agreement, license, security or other muniment conferring on the purchaser the rights, benefits and obligations of a vacation time-sharing plan.

“(4) COMMISSION. The Alabama real estate commission.

"(5) **COMMISSIONER.** A member of the Alabama real estate commission.

"(6) **FACILITIES.** Any structure, service or property, whether improved or unimproved, made available to the purchaser for recreational, social, family or personal use.

"(7) **SELLER.** Any owner of a vacation time-sharing plan or any business entity, including but not limited to an agent, dealer, distributor, franchiser, subsidiary, assignee, reseller, broker or any other representative thereof who, for a fee, commission or other valuable consideration, negotiates or attempts to negotiate the listing, sale, auction, purchase, exchange or lease of any real estate or the improvements thereon or collects rents or attempts to collect rents, or who advertises or holds himself out as engaged in any of the foregoing activities. Provided however, that the provisions of this article shall not be applicable to:

"a. The resale of a vacation time-sharing unit week by the owner of such unit week, when the seller owns no more than two such unit weeks within the respective vacation time-sharing plan. Provided however, that the contract for such resale shall meet all the requirements of a contract for the initial sale of a vacation time-sharing interest, including the non-waivable right of the purchaser to cancel the contract within the specified five-day period.

"b. Agencies and instrumentalities of the state or federal government nor to employees of any lender or public officials making appraisals through such employees for lending or governmental purposes; and provided further, that the sales licensure provisions of this article shall not be applicable to the sale of real estate by anyone who owns a fee simple interest of at least 10 percent therein, or to the attorney-at-law of such owner acting within the scope of his duties as an attorney-at-law. Ownership of stock in a corporation is not ownership of an interest in real estate owned by the corporation and does not exempt such stockholder from any provision of this article unless the stockholder owns or controls at least 10 percent of the stock of the corporation. This provision exempts owners from only the sales licensure requirements of this article. All other requirements of sellers under this article shall apply to owners of vacation time-sharing plans.

"(8) **VACATION TIME-SHARING OWNERSHIP PLAN.** Any arrangement, plan, or similar device, whether by tenancy in common, sale, deed or by other means, which is subject to supplemental agreement or contract for use of the time-sharing unit, whereby the purchaser receives an undivided fee simple ownership interest in and the right to use accommodations or facilities, or both, for a specific period of time during any given year, but not necessa-

rily for consecutive years, which extends for a period of more than one year.

“(9) **VACATION TIME-SHARING LEASE PLAN.** Any arrangement, plan, or similar device, whether by membership agreement, lease, rental agreement, license, use agreement, security or other means, whereby the purchaser receives a right to use accommodations or facilities, or both, but does not receive an undivided fee simple interest in the property, for a specific period of time during any given year, but not necessarily for consecutive years, and which extends for a period of more than one year.

“Such lease plans shall not include an arrangement or agreement whereby a purchaser in exchange for an advance fee and yearly dues is entitled to select from a designated list of facilities located in more than one state accommodations, of companies which operate in at least nine states in the United States through franchises or ownership, for a specified period time period and at reduced rates and under which no interest in real property is transferred.

“(10) **VACATION TIME-SHARING PLAN.** Either a vacation time-sharing ownership plan or a vacation time-sharing lease plan as defined herein.

“(11) **TIME-SHARING UNIT.** The actual accommodations and related facilities which are the subject of the vacation time-sharing ownership plan or lease plan.

“(12) **SUBSTANTIALLY COMPLETE.** All structural components and mechanical systems of all buildings containing or comprising any time-sharing unit, facilities, or accommodations are finished in accordance with the plans or specifications of the project as evidenced by a recorded certificate of completion executed by an independent registered surveyor, architect or engineer.

“(13) **UNIT WEEK.** A number of consecutive days, normally seven consecutive days in duration, which may reasonably be assigned to purchasers of vacation time-sharing plans by the sellers.

“(14) **RECEIVABLE.** Any note, contract, promise or any other agreement to pay a fixed or determinable amount of money which, for the purposes of this article, shall not be in arrears for more than 90 days.

“(15) **FACE VALUE.** The principal amount of money represented by any receivable as defined in item (14), together with the amount of all interest collected thereon.

“(16) **ESCROW AGENT.** A bank or trust company doing business in this state or a bonded trust agent bonded in at least the

amount of the trust; provided however, that nothing contained in this article shall operate to prevent investment of funds escrowed pursuant to this article by the bank, trust company or bonded agent and to pay all interest and dividends to the seller of vacation time-sharing plans.

“(17) ESCROW ACCOUNT. Any funds held or maintained by an escrow agent.

“(18) VACATION TIME-SHARING SALES LICENSE. A license issued by the commission authorizing individuals to act as sellers of vacation time-sharing plans.

“(19) LICENSEE. A person having a vacation time-sharing sales license.

“(20) EXCHANGE COMPANY. Any person owning and/or operating an exchange program.

“(21) EXCHANGE PROGRAM. Any arrangement allowing owners to exchange occupancy rights with persons owning other timeshares; provided, however, than an exchange program shall not exist if all of the occupancy rights which may be exchanged are in the same time-share property.

“(22) MANAGING AGENT. Any person engaged by the association to manage the time-share plan and the time-share property.

“(23) VACATION TIME-SHARING OWNERSHIP PLANS. Such term shall mean and include:

“a. Time-sharing ownership plans whereby purchasers are deeded an undivided interest in the facilities with a right to use designated accommodations for a specific period of time during any given year, but not necessarily for consecutive years, which extends for a period of more than one year; and

“b. Interval ownership plans, whereby purchasers are deeded title to designated time-sharing units, accommodations or facilities for a specific period of time during any given year, but not necessarily for consecutive years, which extends for a period of more than one year, with remainder after such period to interval plan owners as tenants in common.

“(24) QUALIFYING BROKER. A person who is licensed by the commission as a real estate broker as well as a seller of vacation time-sharing plans and who serves in a supervisory capacity to all other licensees acting as sales agents for the vacation time-sharing plan which the qualifying broker represents.

“§ 34-27-51.

"It shall be a violation of this article for any seller of vacation time-sharing plans to:

"(1) Sell, lease, encumber or convey in any manner or to solicit or advertise such transactions unless the seller has been duly licensed under the provisions of section 34-27-66 hereunder and unless the vacation time-sharing plan and the units thereby affected have first been registered with the commission. Provided, however, that the registration requirements of this article shall not prohibit or restrict the listing and resale of any vacation sharing plan when:

"a. The vacation time-sharing plan to be resold is within an existing time-sharing facility currently registered with the commission pursuant to the requirements of this article; and

"b. The vacation time-sharing plan to be resold is subject to the identical rules, regulations, conditions or limitations on the use of the accommodations or facilities which affect all other vacation time-sharing plans within that time-sharing facility.

"(2) Fail to provide, at the time of registration, to the commission the following materials, or fail to provide any amendments or changes therein made while sales continue:

"a. A copy of the contract by which the rights and obligations of the parties are established.

"b. Copies of promotional brochures, pamphlets, advertisements or other material disseminated to the public in connection with the sale of the vacation time-sharing plan and verbatim scripts of all radio and television advertising in connection therewith.

"c. A statement of the type and business entity through which the business of selling vacation time-sharing is carried out, including a list of the names and addresses of all directors, principal officers, dealers, distributors and sales personnel soliciting in or from the state of Alabama, and the name and address of the business agent for service of process within the state.

"d. Copies of all rules, regulations, conditions or limitations on use of the accommodations of facilities available pursuant to the vacation time-sharing plan.

"e. A statement as to the existence of all liens on the accommodations or facilities which could affect the rights of the purchaser or his assignee, together with the location, date and filing books and page number where such liens are recorded.

"f. A synopsis of any sales presentation made by the seller to the purchaser over the telephone or other electronic device.

"g. A projected budget of all recurring expenses which may become the responsibility of all time-sharing purchasers.

"h. Evidence that the time-sharing plan owner or his agent shall furnish a surety bond payable to the State of Alabama in the amount of \$100,000.00 with a surety company authorized to do business in Alabama, which bond shall provide that the obligor therein shall pay up to \$100,000.00 the aggregate sum of all judgments which may be recovered against the vacation time-sharing plan owner or seller for any actual loss or damage arising against such vacation time-sharing plan owner or seller from the activities of the time-sharing plan owner or seller, or their agents or representatives, conducted under this article. Such bond must remain in effect for as long as the time-sharing plan shall be registered. In the event such bond is revoked by the surety company, the time-sharing owner shall have 10 days in which to obtain a new bond and file such with the commission. The lack of a bond shall be grounds for the suspension of the registration of the time-sharing plan.

"Upon receipt of all items required by this section, the commission shall determine the sufficiency thereof and upon satisfactory compliance with this article, shall issue its order approving their use. The vacation time-sharing plan shall then be deemed registered. Promotional or advertising material developed after the initial registration of a time-sharing plan may be used without prior approval of the commission provided that such material is in compliance with this article and further provided that it is submitted to the commission within 10 days after its initial public use.

"(3) Fail to include in all advertising of any vacation time-sharing plan a statement which clearly states that the seller is offering a time-sharing interest.

"(4) Fail to include in all advertising of any vacation time-sharing plan which offers a time-sharing interest of less than fee simple a statement which clearly states that the interest being offered is less than a fee simple ownership interest.

"§ 34-27-60.

"It shall be a violation of this article for any seller of vacation time-sharing plans to:

"(1) Use any promotional device, including but not limited to sweepstakes, lodging certificates, gift awards, premiums, or discounts, without fully disclosing that such promotional device is being used for the purpose of soliciting the same of vacation time-sharing plans and without fully disclosing the retail value of each such device and the approximate odds of winning each award or prize offered.

"(2) Use any promotional device as set forth above to obtain the names and addresses of prospective purchasers without fully and prominently disclosing that names and addresses so acquired will be used for the purpose of soliciting the sale of vacation time-sharing plans.

"(3) Misrepresent the amount of time or period of time the accommodations and facilities will be available to any purchaser.

"(4) Misrepresent or deceptively represent the location of the offered accommodations and facilities.

"(5) Misrepresent the size, nature, extent, qualities or characteristics of the offered accommodations and facilities.

"(6) Misrepresent the nature and extent of any services incident to the accommodations and facilities.

"(7) Make any misleading or deceptive representations with respect to the contents of the contract or the buyer's rights, privileges or benefits thereunder.

"(8) Fail to honor and comply with all provisions of the contract with the purchaser.

"(9) Misrepresent the conditions under which a customer may exchange his rights to an accommodation in one location for rights to an accommodation in another location.

"(10) Include in any contract any provision purporting to waive any right or benefit provided for purchasers under this article, or to seek or solicit such a waiver.

"(11) Do any other act which constitutes fraud, misrepresentation or failure to make a disclosure of a material fact.

"(12) Perform any sale for which a vacation time-sharing license is required unless the seller is either exempted from the license requirement, a duly authorized and licensed qualifying broker, or a duly licensed seller acting under the sponsorship and supervision of a qualifying broker.

"(13) If a qualifying broker, allowing any unlicensed person who is engaged or employed by him or who is under his control or supervision to perform any act for which a time-sharing sales license is required.

"(14) Presenting to the Alabama real estate commission, as payment for a fee or fine, a check that is returned due to there being insufficient funds in the account upon which it was drawn or due to such account being closed or not in existence.

"§ 34-27-66.



"(a) Any person desiring to act as a seller of vacation time-sharing plans shall file with the commission a written application upon such form as the commission shall designate and shall pass to the satisfaction of the commission the examination hereinafter prescribed.

"(b) Prerequisites for taking the vacation time-sharing sales examination are as follows:

"(1) Evidence satisfactory to the commission that the applicant bears a good reputation for honesty and truthfulness.

"(2) The applicant should not have been convicted of any criminal offense involving moral turpitude or of any felony in this or any other state.

"(3) The applicant must be a permanent resident of Alabama and at least 19 years of age.

"(4) The applicant must be a citizen of the United States or shall possess a certification of lawful permanent residence issued by the immigration and naturalization bureau of the United States government.

"(c) The commission shall prepare and conduct an examination on the fundamentals of this article and related topics and shall schedule such examination at least quarterly. No applicant shall be entitled to examination unless all prerequisites enumerated above have been met as determined by the commission. The minimum passing grade shall be 70 percent.

"(d) Every applicant shall pay the sum of \$75.00 for each examination taken. Should an applicant be scheduled for an examination and fail to appear, the entire amount of the examination fee will be forfeited. Liability for forfeiture occurs at the time the examination permit is issued. The applicant shall be allowed up to sixty days after passing the examination to either be designated as a qualifying broker or to secure a qualifying broker under whom to be licensed. In the alternative, the applicant may place his license on inactive status with the commission, provided he does so within the allotted sixty-day period. Every applicant for a license shall also pay a license fee of \$50.00 upon successful completion of the examination, provided he submits the license fee along with appropriate documentation to the commission within the allotted sixty-day period. The sixty-day period shall begin on the date which the results of the applicant's examination are made available to the applicant. The results shall be mailed from the commission office, and the applicant will be considered to have received such notification three days from the date of mailing. Should an applicant not become licensed within sixty days after receiving notification of his having passed the exam-

ination, he shall be required to again meet the requirements of an original applicant before becoming licensed, including the taking and passing of the examination. The commission shall be entitled to retain all fees collected to defray its expenses. No fees collected hereunder shall be in lieu of any business license fees or taxes imposed by any city, county, or municipal authority. The commission shall be entitled to contract with any outside source to prepare and conduct vacation time-sharing sales examinations in its behalf and to pay for the reasonable cost thereof from the examination fees collected.

“(e) Vacation time-sharing sales licenses shall be renewed annually on or before September thirtieth, which shall be the annual expiration date for such licenses. Any license renewed after September thirtieth and prior to January first of the following year shall be subject to a penalty fee of \$15.00 in addition to the license fee. On January first of the year following the expiration of a vacation time-sharing sales license, the license may no longer be renewed, and the former license holder shall be required to again meet the requirements of an original applicant before again becoming licensed, including the taking and passing of the license examination. Upon the submission of a renewal request in such form as the commission shall prescribe and payment of a \$50.00 renewal fee, the commission shall issue the appropriate license.

“(f) Any vacation time-sharing sales licensee shall be either a qualifying broker for a vacation time-sharing plan or shall be licensed under such a qualifying broker, and the qualifying broker must be in a supervisory capacity to each time-sharing sales licensee licensed under him.

“(g) The qualifying broker for a vacation time-sharing plan must meet all the general requirements of a time-sharing sales license and must have a current, active real estate broker's license issued under the Alabama real estate license law as well as a time-sharing sales license. If the qualifying broker is not licensed on active status with a real estate company, he may place his real estate broker's license on active status in the name of the time-sharing plan.

“(h) The qualifying broker for a vacation time-sharing plan shall sign a statement accepting the responsibility for the actions of any licensee licensed under him, as well as the sales actions of the vacation time-sharing plan for which he is the qualifying broker. Each qualifying broker shall have the duty and responsibility of insuring that every seller licensed under him, as well as the vacation time-sharing plan for which he is the qualifying broker, comply with the provisions of this chapter, and the broker shall be responsible to

any injured party for actual damages caused to such party by any violation of this chapter by vacation time-sharing plan or seller for whom he is acting as qualifying broker.

“(i) There shall be a license transfer fee of \$50.00 for any of the following: A change of qualifying broker; a change of name or address of the vacation time-sharing plan; a change of name of a licensee; a change of employment by a licensee; or the activation of an inactive license.

“(j) In each case where a vacation time-sharing plan shall have more than one site, it must be demonstrated that the qualifying broker for the plan will be able to provide supervision over all other licensees. In the event that adequate supervision cannot be provided by a single qualifying broker, then there shall be such additional qualifying broker(s) assigned as to provide such supervision. Such additional brokers will each be designated as a broker for a particular site or sites and shall sign statements accepting responsibility for the acts or omissions of the vacation time-sharing plan with respect to the site for which he is the qualifying broker.

“(k) A representative of the vacation time-sharing plan authorized to do so may designate an office located off the site of the time-sharing facility as a branch office of the vacation time-sharing plan provided that a qualifying broker is designated for each such branch sales office.

“(l) A real estate company licensed by the commission may act as an agent for the purpose of reselling time-shares for persons who each own no more than two unit weeks of a given time-sharing plan provided that the contract for such resale shall meet all the requirements of a contract for the initial sale of a vacation time-sharing interest, including the non-waivable right of the purchaser to cancel the contract within the specified five-day period; and further provided that the qualifying broker for such real estate company be licensed as a time-share seller by the commission and that any sales agent of the company who participates in such a sale of time-shares be licensed by the commission as a time-share seller.

“(m) No applicant to be a seller of vacation time-sharing plans shall be issued a license by the commission unless the applicant is designated as a qualifying broker by a representative of a vacation time-sharing plan or real estate company authorized to make such a designation, or unless the applicant is sponsored by a duly authorized qualifying broker who has signed a written statement accepting sponsorship of the applicant. Provided however, that the applicant may have his license issued on inactive status and maintained at the office of the commission.

“(n) No vacation time-sharing licensee shall perform any of the acts authorized by such license until the license certificate is in his actual possession, if the licensee is a qualifying broker, or in the possession of his sponsoring broker, if the licensee is not a qualifying broker.

“(o) A licensee may place his license on inactive status with the commission for a period of up to 24 consecutive months and may renew his license while it is on inactive status. It shall be the duty of the licensee to inform the commission of any change in his mailing address. No license which is on inactive status will be reactivated without the commission receiving evidence that the licensee’s surety bond is in effect. Any license which has been on inactive status for longer than 24 consecutive months shall automatically expire as of the day following the 24 month period.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-283

S. 343—Senators Mitchem, Barron and  
Holmes

### AN ACT

Relating to findings of the Legislature regarding the disease Avian Influenza; setting the crime of knowing or wanton violation of laws or regulations pertaining to the control or eradication of Avian Influenza a Class C felony.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Legislature has ascertained and found and hereby declares that the disease Avian Influenza is a serious transmissible disease of all birds, for which there is no known cure, and that this disease has been diagnosed in several states of the United States. Any outbreak of this disease in Alabama could seriously jeopardize the entire poultry industry in Alabama.

**Section 2.** Any person knowingly or wantonly violating any laws or regulations duly promulgated by the State Board of Agriculture and Industries which was enacted for the prevention or eradication of the disease Avian Influenza shall be guilty of a Class C felony.

**Section 3.** This Act shall become effective immediately upon

its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-284

S. 314—Senators Mitchem, Little, Barron, Dial, Aldridge, Hand, Bailey, Smith (J), Langford, Holmes, Denton, Foshee, Smith (B), Amari, Goodwin, Bennett, Cooley, Covington, Dixon, Drinkard, Parsons, Teague, Strong, Hilliard, Corbett and deGraffenried

#### AN ACT

To provide that any appropriations made to the Public Education Employees' Health Insurance Board for the purpose of funding a uniform plan of health insurance for educational personnel shall also include an appropriation to the Public Education Employees' Health Insurance Board for partially funding insurance coverage for retired employees.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** All words and phrases defined in Act 83-455, H 163, 1983 Regular Session, whenever used in this act in reference to the Public Education Employees' Health Insurance Plan, shall have the same meaning unless the context specifically indicates otherwise.

**Section 2.** (a) Any appropriations to the Public Education Employees' Health Insurance Board for the fiscal year ending September 30, 1985, and each fiscal year thereafter shall include an amount to partially fund the cost of coverage for retired employees; provided that in the event the plan shall become fully funded pursuant to the provisions of Act 83-455, H 163, 1983 regular session, this section shall not apply.

(b) The amount authorized by subsection (a) of this section shall be determined by multiplying the number of retired employees by an individual retired employee rate. The individual retired employee rate shall be determined by multiplying the full cost of coverage for a retired employee eligible to receive benefits under the federal medicare program times the fractional amount derived by dividing the current individual appropriation for an employee not eligible for benefits under the federal medicare program by the full

cost of coverage for an employee not eligible to receive benefits under the federal medicare program.

(c) Any appropriation made pursuant to this section shall be deposited in the same fund and handled pursuant to the same manner as if made under the provisions of Act 83-955, H 163, 1983 regular session.

**Section 3.** The provisions of this act are supplemental and shall be construed in para materia with other statutes relating to health insurance coverage for educational personnel.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** This act shall become effective immediately upon its passage and approval by the governor or upon its otherwise becoming a law.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-285

S. 258—Senators Goodwin, Covington,  
Little, Bedford, Dial,  
Aldridge, Bishop, Holmes,  
deGraffenried, Hand,  
Cabaniss, Strong, Ellis, and  
Bennett

### AN ACT

To amend Code of Alabama 1975, §§ 13A-12-190 through 13A-12-197, relating to child pornography, in order to further define and prohibit child pornography and to further provide for the trial of cases involving it; to specify the cases these amendments apply to; to provide that the provisions of this act are severable; and to provide an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Code of Alabama 1975, § 13A-12-190 is hereby amended to read as follows:

“For the purposes of this division, the following terms shall have the meanings respectively ascribed to them by this section:

(1) **DISSEMINATE.** To sell, lend or show for monetary consideration or to offer or agree to do the same.

(2) **DISPLAY PUBLICLY.** The exposing, placing, posting, exhibiting or in any fashion displaying in any location, whether pub-

lic or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a public thoroughfare, depot or vehicle.

(3) **PUBLIC THOROUGHFARE, DEPOT OR VEHICLE.**

Any street, highway, park, depot or transportation platform or other place, whether indoors or out, or any vehicle for public transportation, owned or operated by government, either directly or through a public corporation or authority, or owned or operated by any agency of public transportation that is designed for the use, enjoyment or transportation of the general public.

(4) **KNOWINGLY.** A person knowingly disseminates or publicly displays obscene matter when the person knows the nature of the matter. A person knows the nature of the matter when either of the following circumstances exist:

a. The person is aware of the character and content of the matter; or

b. The person recklessly disregards circumstances suggesting the character and content of the matter.

(5) **SADO-MASOCHISTIC ABUSE.** Such term means either of the following:

a. Flagellation or torture, for the purpose of sexual stimulation, by or upon a person who is nude or clad in undergarments or in a revealing or bizarre costume; or

b. The condition of a person who is nude or clad in undergarments or in a revealing or bizarre costume being fettered, bound or otherwise physically restrained for the purpose of sexual stimulation.

(6) **SEXUAL EXCITEMENT.** The condition of human male or female genitals when in a state of sexual stimulation.

(7) **SEXUAL INTERCOURSE.** Intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital or oral-anal, whether between persons of the same or opposite sex or between a human and an animal.

(8) **MASTURBATION.** Manipulation, by hand or instrument, of the human genitals, whether one's own or another's for the purpose of sexual stimulation.

(9) **OTHER SEXUAL CONDUCT.** Any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(10) **BREAST NUDITY.** The lewd showing of the post-pubertal human female breasts below a point immediately above the top of the areola.

(11) **GENITAL NUDITY.** The lewd showing of the genitals or pubic area.

(12) **MATTER.** Any book, magazine, newspaper, or other printed material, or any picture, photograph, motion picture or electrical or electronic reproduction, or any other articles, or materials that either are or contain a photographic or other visual reproduction of a live act, performance, or event.

(13) **OBSCENE.** (a) When used to describe any matter that contains a visual reproduction of breast nudity, such term means matter that:

1. Applying contemporary local community standards, on the whole, appeals to the prurient interest; and

2. Is patently offensive; and

3. On the whole, lacks serious literary, artistic, political or scientific value.

(b) When used to describe matter that contains a visual reproduction of an act of sado-masochistic abuse, sexual intercourse, sexual excitement, masturbation, genital nudity, or other sexual conduct, such term means matter containing such a visual reproduction that itself lacks serious literary, artistic, political or scientific value.

(14) **LOCAL COMMUNITY.** The judicial circuit in which the indictment is brought."

**Section 2.** Code of Alabama 1975, § 13A-12-191 is hereby amended to read as follows:

"Any person who shall knowingly disseminate or display publicly any obscene matter containing a visual reproduction of a person under the age of 17 years engaged in any act of sado-masochistic abuse, sexual intercourse, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct shall be guilty of a Class B felony."

**Section 3.** Code of Alabama 1975, § 13A-12-192 is hereby amended to read as follows:

"(a) Any person who knowingly possesses with intent to disseminate any obscene matter containing a visual reproduction of a person under the age of 17 years engaged in any act of sado-masochistic abuse, sexual intercourse, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct shall be guilty of a Class B felony. Possession of three or more copies of the same



obscene material is prima facie evidence of possession with intent to disseminate the same."

(b) Any person who knowingly possesses any obscene matter containing a visual reproduction of a person under the age of 17 years engaged in any act of sado-masochistic abuse, sexual intercourse, sexual excitement, masturbation, genital nudity, or other sexual conduct shall be guilty of a Class C felony.

**Section 4.** Code of Alabama 1975, § 13A-12-193 is hereby amended to read as follows:

"(a) In proving that any person in a visually reproduced matter who is engaged in any obscene act set out in sections 13A-12-191, 13A-12-192, 13A-12-196 and 13A-12-197 is under the age of 17 years, the State is not required to introduce into evidence a birth certificate, produce testimony as to the date of birth of such person or produce testimony of any person who knows or is acquainted with the person alleged to be under the age of 17 years. If the defendant or the State intends to rely on a birth certificate to prove the date of birth of any person in the visually reproduced matter, such defendant or the State shall file with the clerk of the court in which the action is pending, at least 15 days prior to trial, a notice of an intention to rely on an official, certified copy of a birth certificate together with a copy of the said birth certificate.

(b) A jury, or the court if a jury trial is waived, may infer from the following factors whether or not the person displayed or depicted in any obscene matter is under the age of 17 years:

- (1) The general body growth and bone structure of the person;
- (2) The development of pubic hair or body hair on the person;
- (3) The development of the person's sexual organs;
- (4) The context in which the person is placed by any accompanying printed or text material;
- (5) Any expert testimony as to the degree of maturity of the person.

(c) The existence of any or all of the factors listed in subsection (b) of this section shall not operate to change the requirement that before any conviction may be had, the State must convince the factfinder beyond a reasonable doubt that the person engaged in the act of sado-masochistic abuse, sexual intercourse, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct in the visually reproduced matter is under the age of 17 years."

**Section 5.** Code of Alabama 1975, § 13A-12-194 is hereby amended to read as follows:

"The State shall not be required to establish the identity, either in the indictment or in any subsequent proceeding, of the person alleged to be under the age of 17 years who is engaged in any of the acts described in sections 13A-12-191, 13A-12-192, 13A-12-196 and 13A-12-197, which are visually reproduced."

**Section 6.** Code of Alabama 1975, § 13A-12-195 is hereby amended to read as follows:

"Where the circumstances of the dissemination or public display of matter indicates that it is being commercially exploited by the defendant for its prurient appeal, such evidence may be considered in determining whether the matter appeals to the prurient interest, is patently offensive, or lacks serious literary, artistic, political or scientific value."

**Section 7.** Code of Alabama 1975, § 13A-12-196 is hereby amended to read as follows:

"Any parent or guardian who knowingly permits or allows their child, ward, or dependent under the age of 17 years to engage in the production of any obscene matter containing a visual reproduction of such child, ward, or dependent under the age of 17 years engaged in any act of sado-masochistic abuse, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct shall be guilty of a Class A felony."

**Section 8.** Code of Alabama 1975, § 13A-12-197 is hereby amended to read as follows:

"Any person who knowingly films, prints, records, photographs or otherwise produces any obscene matter that contains a visual reproduction of a person under the age of 17 years engaged in any act of sado-masochistic abuse, sexual intercourse, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct shall be guilty of a Class A felony."

**Section 9.** The amendments made in this act shall apply to cases in which the offense is committed after the effective date of this act. Cases in which the offense was committed before the effective date of this act shall be governed by the law as it existed before these amendments.

**Section 10.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part that remains.

**Section 11.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-286

S. 232—Senator Covington

### AN ACT

To amend Section 11-43-4, Code of Alabama 1975, as amended, and to amend Section 11-43-45, Code of Alabama 1975, said sections relating to the election of officers in a municipality, so that vacancies may be filled by a majority vote of the members of the council, and all members of the council may vote to fill vacancies any provision of law notwithstanding.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 11-43-4, Code of Alabama 1975, as amended, is further amended to read as follows:

“§ 11-43-4. Election of clerk, etc., in towns and in cities having less than 6,000 inhabitants; filling of vacancies in council generally.

“In cities having a population of less than 6,000 and in towns, the council shall elect a clerk and fix the salary and term of office, and may determine by ordinance the other officers of the city or town, their salary, the manner of their election and the terms of office, and shall fill all vacancies in the council by a majority vote of the council; and all members of the council may vote to fill vacancies any provision of law to the contrary notwithstanding. The clerk and such other officers elected by the council shall serve until their successor or successors are elected and qualified.

**Section 2.** Section 11-43-45, Code of Alabama 1975, is amended to read as follows:

“§ 11-43-45. Officers—Election or appointment.

“All elections of officers shall be made viva voce, and a concurrence of a majority of the members to the council shall be required, and all members of the council may vote any provision of law to the contrary notwithstanding. On the vote resulting in an election or appointment, the name of each member and for whom he voted shall be recorded.”

**Section 3.** This act shall become effective on September 1, 1984.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-287

S. 191—Senator Barron

AN ACT

To amend Section 5-18-11 of the Code of Alabama 1975 relating to books, accounts and records of licensees under the Alabama Small Loan Act so as to provide further for annual reports of such licensees.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 5-18-11 of the Code of Alabama 1975 is hereby amended to read as follows:

“§ 5-18-11. (a) Books and records.—Each licensee shall keep and use in his business such books, accounts and records as will enable the supervisor to determine whether such licensee is complying with the provisions of this chapter and with the orders and regulations lawfully made by the supervisor hereunder. Each licensee shall preserve such books, accounts and records for at least two years after making the final entry on any loan recorded therein.

“(b) Annual Report.

“(1) Each licensee shall annually, on or before May 1, file a report with the supervisor as to each licensed place of business under this chapter, covering the preceding calendar year.

“(2) Such report shall be made under oath and shall be in the form prescribed by the supervisor who shall make and publish annually an analysis and recapitulation of such reports.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-288

S. 154—Senators Teague, Dial, Hand and  
Menton

AN ACT

To provide for educational assistance benefits for members of the Alabama National Guard.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This act shall be known as the Alabama National Guard Educational Assistance Act.

**Section 2.** Definitions: The following words used in this act shall have the meanings as set forth by this section.

(a) Alabama National Guard means federally recognized units of the Alabama National Guard.

(b) Words importing the masculine gender only shall apply to female as well as male.

(c) Active member means a member of a federally recognized unit of the Alabama National Guard meeting the minimum requirements for satisfactory membership as defined in the Department of the Army and Department of the Air Force regulations.

(d) Veteran means any person with more than one hundred eighty days active duty under Title 10, United States Code, Annotated, and entitled to federal educational benefits will be considered a veteran and not eligible for benefits under this act.

(e) Tuition means the cost of instruction and fees to the student as stated in the institution's catalog, plus the average cost of books and supplies, not to exceed \$500 per semester or quarter or not more than \$1,000 annually.

**Section 3.** The Alabama Commission on Higher Education is hereby authorized to pay or reimburse the tuition for any active member of the Alabama National Guard who is enrolled in a program leading to an Associate or Baccalaureate Degree in an accredited institution of higher learning, technical college, or junior college within the State of Alabama. To be eligible for such benefits, the individual, at the time of his enrollment must be a member of the Alabama National Guard in good standing and a member of a federally recognized unit of the Alabama National Guard. The member must be at least seventeen years of age and must not be eligible for any similar federal veterans educational benefits or other federal educational benefits available to members of the National Guard and must be a resident of the State of Alabama. The tuition grant authorized under this act may be used for undergraduate studies only. In no event will any individual be eligible for payment or tuition after receipt of an undergraduate (bachelor's) degree, whether received through this act or not. No person shall be eligible for a tuition grant for more than ten years after the date of the first tuition payment to him under this act. The Alabama Commission on Higher Education shall set up minimum standards for performance that must be met in order to maintain eligibility for the continuation of the receipt of tuition grants under this act.

**Section 4.** In order to be eligible to receive tuition grants under this act, the member must meet the following minimum requirements:

(a) Be an active member of the Alabama National Guard and must have completed basic training and advanced individual training.

(b) The member must be a member in good standing with the Alabama National Guard as prescribed by regulations promulgated by the Department of the Army, Department of the Air Force, and the Military Department of the State of Alabama, at the time of application and during the entire semester or quarter for which benefits are received.

(c) If at any time an individual who is receiving benefits under this act becomes eligible for federal veterans college educational benefits or other similar federal educational benefits available to and through members of the National Guard, he is automatically ineligible for any further benefits under this act.

(d) In the event the individual's service in the Alabama National Guard is terminated or his service becomes unsatisfactory while receiving or for four (4) years after receiving the benefits afforded by this program the benefits will be terminated and repaid by the individual on a pro rata basis. After termination for the above causes, an individual will be ineligible for any further benefits under this act. If for any reason an individual is dismissed from any school for academic or disciplinary reasons, he is ineligible for further benefits from this program. The Alabama Commission on Higher Education shall be the final authority for making such determinations.

(e) The Alabama Commission on Higher Education of the State of Alabama shall be responsible for the promulgation of rules and regulations for the administration and implementation of this act including rules and regulations providing for the selection of persons to receive benefits under this act. The Alabama Commission on Higher Education of the State of Alabama shall be the final authority in determining eligible applicants.

(f) The Adjutant General of the State of Alabama shall serve as an advisor to the Alabama Commission on Higher Education for the purpose of determining the eligibility of members of the Alabama National Guard to receive benefits under this act.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** This act shall become effective immediately upon

its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 7, 1984

Time: 4:35 P.M.

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Act No. 84-289

S. 146—Senator Hand

### AN ACT

To amend Section 6-8-40, Code of Alabama, 1975, so as to delete the requirement that clerks of the several circuit courts and registers must subscribe for, take and file in their offices copies of newspapers.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 6-8-40, Code of Alabama, 1975, is hereby amended to read as follows:

“§ 6-8-40.

(a) Required.—The judges of the several courts of probate must subscribe for, take and file in their respective offices one copy of each weekly newspaper published in their respective counties and, as soon as practicable after the end of each year, shall cause the number of such papers for the preceding year to be well bound and shall keep the same safely in their respective offices as the property of their respective counties. The respective county commissions must allow to such officers the sums paid by them for such subscription and binding.

(b) Exceptions.—The duties imposed in subsection (a) of this section shall be and remain subject to such exceptions and modifications as have heretofore or as may hereafter be provided by law with respect to particular counties, however identified.

(c) Newspaper not published in county.—If in any county there is no newspaper published, such officers may take and bind the papers of any adjoining county, in which the public printing and advertising of such county may be done.”

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-290

S. 130—Senator deGraffenried

## AN ACT

To be known as the "Alabama Nonprofit Corporation Act" revising the laws of Alabama in Title 10 of the Code of Alabama 1975 providing for: definitions; general substantive provisions; formation of nonprofit corporations; amendments; merger, consolidation and sale of assets; dissolution; foreign nonprofit corporations; provides for fees and miscellaneous charges; and provide powers of probate judge or secretary of state; repealing Chapter 3 (Nonprofit Corporations) Articles 1 through 8 of Title 10 of the Code of Alabama (1975), Chapter 4, Articles 12 and 15 of Title 10 of the Code of Alabama (1975), § 10-4-261 through § 10-4-263; § 10-4-281 through § 10-4-284; and amending § 10-4-260 and § 10-4-280, Code of Alabama (1975).

*Be It Enacted by the Legislature of Alabama:*

**Section 1. Short Title.**

This Act shall be known and may be cited as the "Alabama Nonprofit Corporation Act."

**Section 2. Definitions.**

As used in this Act, unless the context otherwise requires, the term:

(1) "Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto, including articles of merger.

(2) "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which such group is designated.

(3) "By laws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated.

(4) "Certification" means duly authenticated by the proper officer of the state or county under the laws of which a domestic or foreign nonprofit corporation is incorporated.

(5) "Corporation" or "domestic corporation" means a nonprofit corporation subject to the provisions of this Act, except a foreign corporation.

(6) "Foreign corporation" means a nonprofit corporation organized under laws other than the laws of Alabama.

(7) "Insolvent" means inability of a corporation to pay its debts as they become due in the usual course of its affairs.

(8) "Member" means one having membership rights in a corporation in accordance with the provisions of its articles of incorpo-



ration or bylaws. A member may be a natural person, a partnership, a professional association or professional corporation, a corporation for profit or a nonprofit corporation.

(9) "Nonprofit corporation" means a corporation no part of the income or profit of which is distributable to its members, directors or officers.

(10) "Probate Judge" means the probate judge of the county in which the corporation's articles of incorporation are filed or, in the case of corporations existing on January 1, 198\_, the corporation's articles of incorporation were filed, unless otherwise provided in this Act.

(11) "Verified" means supported by an affidavit or oath confirming the correctness, truth or authenticity of the matter set forth therein.

### **Section 3. Applicability.**

(a) The provisions of this Act relating to domestic corporations shall apply to:

- (1) All corporations organized hereunder; and
- (2) All nonprofit corporations heretofore organized under any act hereby repealed, for a purpose or purposes for which a corporation might be organized under this Act.

(b) The provisions of this Act relating to foreign corporations shall apply to all foreign nonprofit corporations conducting affairs in Alabama for a purpose or purposes for which a corporation might be organized under this Act.

### **Section 4. Purposes.**

(a) Corporations may be organized under this Act for any lawful purpose or purposes, including, without being limited to, any one or more of the following purposes:

- (1) Charitable,
- (2) Benevolent,
- (3) Eleemosynary,
- (4) Educational,
- (5) Civic,
- (6) Patriotic,
- (7) Political,
- (8) Religious,

- (9) Social,
- (10) Fraternal,
- (11) Literary,
- (12) Cultural,
- (13) Athletic,
- (14) Scientific,
- (15) Agricultural,
- (16) Horticultural,
- (17) Animal husbandry,
- (18) Professional, commercial, industrial or trade association,  
and
- (19) Historical.

(b) Labor unions, cooperative organizations and organizations subject to any of the provisions of the insurance laws of Alabama may not be organized under this Act.

#### **Section 5. General Powers.**

Each corporation shall have power:

- (1) To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation.
- (2) To sue and be sued, complain and defend, in its corporate name.
- (3) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.
- (4) To purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, tangible or intangible, or any interest therein, wherever situated.
- (5) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.
- (6) To lend money to its employees other than its officers and directors and otherwise assist its employees, officers and directors.
- (7) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partner-

ships or individuals, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof.

(8) To make contracts, guarantees, and indemnity agreements and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage, pledge of, or creation of security interests in, all or any of its property, franchises, or income, or any interest therein, not inconsistent with the provisions of the Constitution of Alabama as the same may be amended from time to time.

(9) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(10) To conduct its affairs, carry on its operations, and have offices and exercise the powers granted by this Act in any state, territory, district, or possession of the United States, or in any foreign country.

(11) To elect or appoint officers and agents of the corporation, who may be directors or members, and define their duties and fix their compensation.

(12) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of Alabama, for the administration and regulation of the affairs of the corporation.

(13) Unless otherwise provided in the articles of incorporation, to make donations for the public welfare or for charitable, scientific or educational purposes; and in time of war to make donations in aid of war activities.

(14) To indemnify any director or officer or former director or officer of the corporation, or any person who may have served at its request as a director or officer of another corporation, whether for profit or not for profit, in which it owns shares of capital stock or of which it is a creditor, against expenses actually and reasonably incurred by him in connection with the defense of any action, suit or proceeding, civil or criminal, in which he is made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of his duty; and to make any other indemnification that shall be authorized by the articles of incorporation or bylaws, vote of the board of directors, or resolution adopted after notice by the members entitled to vote.

(15) To pay pensions and establish pension plans or pension trusts for any or all of its directors, officers and employees.

(16) To cease its corporate activities and surrender its corporate franchise.

(17) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized.

### **Section 6. Defense of Ultra Vires.**

No act of a corporation and no conveyance of transfer of real or personal property to or by a corporation shall be invalid by reason of the fact that the corporation was without capacity or power to do such act or to make or receive such conveyance or transfer, but such lack of capacity or power may be asserted:

(1) In a proceeding by a member or a director against the corporation to enjoin the doing or continuation of unauthorized acts, or the transfer of real or personal property by or to the corporation. If the unauthorized acts or transfer sought to be enjoined are being, or are to be, performed pursuant to any contract to which the corporation is a party, the court may, if all of the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of such contract, and in so doing may allow to the corporation or the other parties to the contract, as the case may be, compensation for the loss or damage sustained by either of them which may result from the action of the court in setting aside and enjoining the performance of such contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained.

(2) In a proceeding by the corporation, whether acting directly or through a receiver, trustee, or other legal representative, or through members in a representative suit, against the officers or directors of the corporation for exceeding their authority.

(3) In a proceeding by the attorney general, as provided in this Act, to dissolve the corporation, or in a proceeding by the attorney general to enjoin the corporation from performing unauthorized acts, or in any other proceeding by the attorney general.

### **Section 7. Corporate Name.**

The corporate name:

(1) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

(2) Shall not be the same as, or deceptively similar to, the name of any corporation, whether for profit or not for profit, existing under the laws of Alabama, or any foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in Alabama, or a corporate name reserved or registered as permitted by the laws of Alabama.

(3) Shall be transliterated into letters of the English alphabet, if it is not in English.

### **Section 8. Registered Office and Registered Agent.**

Each corporation shall have and continuously maintain in Alabama:

(1) A registered office which may be, but need not be, the same as its principal office.

(2) A registered agent, which agent may be either an individual resident in Alabama whose business office is identical with such registered office, or a domestic corporation, whether for profit or not for profit, or a foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in Alabama, having an office identical with such registered office.

(3) The secretary of state shall keep an alphabetical list of domestic corporations, whose articles of incorporation and certificates of incorporation are filed in said office, together with the data contained in such documents.

### **Section 9. Change of Registered Office or Registered Agent.**

(a) A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the probate judge a statement and one copy thereof setting forth:

(1) The name of the corporation.

(2) The location and mailing address of its then registered office.

(3) If the location or mailing address of its registered office is changed, the location or mailing address to which the registered office is to be changed.

(4) The name of its then registered agent.

(5) If its registered agent is changed, the name of its successor registered agent.

(6) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

(7) That such change was authorized by resolution duly adopted by its board of directors.

(b) Such statement shall be executed for the corporation by its president or a vice-president, verified by him and delivered to the probate judge who will transmit a certified copy to the secretary of state. If the probate judge finds that such statement conforms to the provisions of this Act, he shall file such statement in his office, and upon such filing, the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

(c) Any registered agent of a corporation may resign as such agent upon filing a written notice thereof, executed in triplicate, with the probate judge, who shall transmit a certified copy to the secretary of state and who shall forthwith mail a copy thereof to the corporation in care of an officer, who is not the resigning registered agent, at the address of its registered office. The appointment of such agent shall terminate upon the expiration of 30 days after receipt of such notice by the probate judge.

(d) If a registered agent changes his or its business address to another place within the same county, he or it may change such address and the address of the registered office of any corporations of which he or it is a registered agent by filing a statement and one copy thereof as required in this section except that it need be signed only by the registered agent and need not be responsive to (a) (5) or (a) (7) and must recite that a copy of the statement has been mailed to each such corporation.

#### **Section 10. Service or Process on Corporation.**

(a) The registered agent so appointed by a corporation shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

(b) Whenever a corporation shall fail to appoint or maintain a registered agent in Alabama, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then it may be served as provided by the Alabama Rules of Civil Procedure.

(c) Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

#### **Section 11. Members.**

(a) A corporation may have one or more classes of members or may have no members. If the corporation has one or more classes of

members, the designation of such class or classes, the manner of election or appointment and the qualifications and rights of the members of each class shall be set forth in the articles of incorporation or the bylaws. If the corporation has no members, that fact shall be set forth in the articles of incorporation. A corporation may issue certificates evidencing membership therein.

(b) The members of the corporation shall not, as such, be liable for obligations of the corporation.

### **Section 12. Bylaws.**

The initial bylaws of a corporation shall be adopted by its board of directors. The power to alter, amend or repeal the bylaws or adopt new bylaws shall be vested in the board of directors, unless otherwise provided in the articles of incorporation or the bylaws. The bylaws may contain any provisions for the regulation and management of the affairs of a corporation not inconsistent with law or the articles of incorporation.

### **Section 13. Meetings of Members.**

(a) Meetings of members may be held at such place, either within or without Alabama, as may be provided in the bylaws. In the absence of any such provisions, all meetings shall be held at the registered office of the corporation in Alabama.

(b) An annual meeting of the members shall be held at such time as may be provided in the bylaws. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the corporation.

(c) Special meetings of the members may be called by the president or by the board of directors. Special meetings of the members may also be called by such other officers or persons or number or proportion of members as may be provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the number or proportion of members entitled to call a meeting, a special meeting of members may be called by members having one-twentieth of the votes entitled to be cast at such meeting.

### **Section 14. Notice of Members' Meetings.**

Unless otherwise provided in the articles of incorporation or the bylaws, written notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than 10 nor more than 50 days before the date of the meeting, either personally or by mail, by or at the direction of the president, or the secretary, or the officers or persons calling the meeting, to each member entitled to vote at such meeting. If mailed, such notice shall be deemed to be

delivered when deposited in the United States mail addressed to the member at his address as it appears on the records of the corporation, with postage thereon prepaid.

### **Section 15. Waiver of Notice.**

Whenever any notice is required to be given to any member or director of a corporation under the provisions of this Act or under the provisions of the articles of incorporation or bylaws of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

### **Section 16. Voting of Members.**

(a) The right of the members, or any class or classes of members, to vote may be limited, enlarged or denied to the extent specified in the articles of incorporation or the bylaws. Unless so limited, enlarged or denied, each member, regardless of class, shall be entitled to one vote on each matter submitted to a vote of members.

(b) A member entitled to vote may vote in person or, unless the articles of incorporation or the bylaws otherwise provide, may vote by proxy executed in writing by the member, or by his duly authorized attorney-in-fact. No proxy shall be valid after 11 months from the date of its execution, unless otherwise provided in the proxy. Where directors or officers are to be elected by members, the bylaws may provide that such elections may be conducted by mail.

(c) The articles of incorporation or the bylaws may provide that in all elections of directors every member entitled to vote shall have the right to cumulate his vote and to give one candidate a number of votes equal to his vote multiplied by the number of directors to be elected, or by distributing such votes on the same principle among any number of such candidates.

(d) If a corporation has no members or its members have no right to vote, the directors shall have the sole voting power.

### **Section 17. Quorum of Members.**

The bylaws may provide the number or percentage of members entitled to vote represented in person or by proxy, or the number or percentage of votes represented in person or by proxy, which shall constitute a quorum at a meeting of members. In the absence of any such provision, members holding one-tenth of the votes entitled to be cast on the matter to be voted upon, represented in person or by proxy, shall constitute a quorum. A majority of the votes entitled to be cast on a matter to be voted upon by the members present or represented by proxy at a meeting at which a quorum is present shall be necessary for any action to be taken unless a greater propor-



tion is required by this Act, the articles of incorporation or the bylaws.

### **Section 18. Greater Voting Requirements.**

Whenever, with respect to any action to be taken by the members or directors of a corporation, the articles of incorporation or bylaws require the vote or concurrence of a greater proportion of the directors or members or any class of members than required by this Act, the provisions of the articles of incorporation or bylaws shall control.

### **Section 19. Board of Directors.**

(a) All corporate powers shall be exercised by or under authority of, and the business and affairs of a corporation shall be managed under the direction of a board of directors except as may be otherwise provided in this Act or the articles of incorporation. If any such provision is made in the articles of incorporation, the power and duties conferred or imposed upon the board of directors by this Act shall be exercised or performed to such extent and by such person or persons as shall be provided in the articles of incorporation. Directors shall be natural persons but need not be residents of Alabama unless the articles of incorporation or bylaws so require. The articles of incorporation or bylaws may prescribe other qualifications for directors. The board of directors shall have authority to fix the compensation of directors unless otherwise provided in the articles of incorporation.

(b) The directors of the corporation shall not, as such, be liable for obligations of the corporation.

### **Section 20. Number and Election of Directors.**

(a) The number of directors of a corporation shall be not less than three. Subject to such limitation, the number of directors shall be fixed by the bylaws, except as to the number of the first board of directors which number shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment to the bylaws, unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment of the articles of incorporation. No decrease in number shall have the effect of shortening the term of any incumbent director. In the absence of a bylaw fixing the number of directors, the number shall be the same as that stated in the articles of incorporation.

(b) The directors constituting the first board of directors shall be named in the articles of incorporation and shall hold office until the first annual election of directors or for such other period as may

be specified in the articles of incorporation or the bylaws. Thereafter, directors shall be elected or appointed in the manner and for the terms provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the term of office, the term of office of a director shall be one year.

(c) Directors may be divided into classes and the terms of office of the several classes need not be uniform. Each director shall hold office for the term to which he is elected or appointed and until his successor shall have been elected or appointed and qualified.

(d) A director may be removed from office pursuant to any procedure therefor provided in the articles of incorporation.

#### **Section 21. Vacancies.**

(a) Any vacancy occurring in the board of directors and any directorship to be filled by reason of an increase in the number of directors may be filled by the affirmative vote of a majority of the remaining directors, though less than a quorum of the board of directors, unless the articles of incorporation or the bylaws provide that a vacancy or directorship so created shall be filled in some other manner, in which case such provision shall control.

(b) A director elected or appointed, as the case may be, to fill a vacancy shall be elected or appointed for the unexpired term of his predecessor in office.

(c) Any directorship to be filled by reason of an increase in the number of directors may be filled by the board of directors for a term of office continuing only until the next election of directors.

#### **Section 22. Quorum of Directors.**

(a) A majority of the number of directors fixed by the bylaws, or in the absence of a bylaw fixing the number of directors, then of the number stated in the articles of incorporation, shall constitute a quorum for the transaction of business, unless otherwise provided in the articles of incorporation or the bylaws; but in no event shall a quorum consist of less than one-third of the number of directors so fixed or stated. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by this Act, the articles of incorporation or the bylaws.

(b) If a quorum is present when the meeting is convened, the directors present may continue to do business, taking action by a vote of a majority of a quorum as fixed above, until adjournment, notwithstanding the withdrawal of enough directors to leave less than a quorum as fixed above, or the refusal of any director present to vote.

**Section 23. Committees.**

If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the directors in office, may designate and appoint one or more committees each of which shall consist of two or more directors, which committees, to the extent provided in such resolution, in the articles of incorporation or in the bylaws of the corporation, shall have and exercise all the authority of the board of directors, except that no such committee shall have the authority of the board of directors in reference to amending, altering or repealing the bylaws; electing, appointing or removing any member of any such committee or any director or officer of the corporation; amending the articles of incorporation, restating articles of incorporation, adopting a plan of merger or adopting a plan of consolidation with another corporation; authorizing the sale, lease, exchange or mortgage of all or substantially all of the property and assets of the corporation; authorizing the voluntary dissolution of the corporation or revoking proceedings therefor; adopting a plan for the distribution of the assets of the corporation; or amending, altering or repealing any action or resolution of the board of directors which by its terms provides that it shall not be amended, altered or repealed by such committee. Other committees not having and exercising the authority of the board of directors in the management of the corporation may be designated by a resolution adopted by a majority of the directors present at a meeting at which a quorum is present. The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any individual director of any responsibility imposed upon it or him by law.

**Section 24. Place and Notice of Directors' Meetings; Committee Meetings.**

(a) Meetings of the board of directors, regular or special, may be held either within or without Alabama.

(b) Regular meetings of the board of directors or any committee designated thereby may be held with or without notice as prescribed in the bylaws. Special meetings of the board of directors or any committee designated thereby shall be held upon such notice as is prescribed in the bylaws. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors or any committee designated thereby need be specified in the notice

of such meeting or the waiver of notice unless required by the bylaws.

(c) Except as may be otherwise restricted by the articles of incorporation or bylaws, members of the board of directors or any committee designated thereby may participate in a meeting of such board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at a meeting.

### **Section 25. Action by Members or Directors Without Meeting.**

Any action required by this Act to be taken at a meeting of the members or directors of a corporation or any action which may be taken at a meeting of the members or directors or of a committee of directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the members entitled to vote with respect to the subject matter thereof, all of the directors or all of the members of the committee of directors, as the case may be. Such consent shall have the same force and effect as a unanimous vote and may be stated as such in any articles or documents filed with either the probate judge or secretary of state.

### **Section 26. Officers.**

(a) The officers of a corporation shall consist of a president, one or more vice-presidents, a secretary, a treasurer and such other officers and assistant officers as may be deemed necessary, each of whom shall be elected or appointed at such time, in such manner and for such terms not exceeding three years as may be prescribed in the articles of incorporation or the bylaws. In the absence of any such provision, all officers shall be elected or appointed annually by the board of directors. Each officer shall hold office for the term to which he is elected or appointed and until his successor shall have been elected or appointed. If the bylaws so provide, any two or more offices may be held by the same person, except the offices of president and secretary.

(b) The articles of incorporation or the bylaws may provide that any one or more officers of the corporation shall be ex officio members of the board of directors.

(c) The officers of a corporation may be designated by such additional titles as may be provided in the articles of incorporation or the bylaws.

(d) The officers and employees of the corporation shall not, as such, be liable for obligations of the corporation.

#### **Section 27. Removal of Officers.**

Any officer elected or appointed may be removed by the persons authorized to elect or appoint such officer whenever in their judgment the best interests of the corporation will be served thereby. The removal of an officer shall be without prejudice to the contract rights, if any, of the officer so removed. Election or appointment of an officer shall not of itself create contract rights.

#### **Section 28. Books and Records.**

Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors and committees having any of the authority of the board of directors; and shall keep at its registered office or principal office in Alabama a record of the names and addresses of its members entitled to vote, directors and officers. All books and records of a corporation may be inspected by any member, director or officer, or his agent or attorney, for any proper purpose at any reasonable time.

#### **Section 29. Shares of Stock and Dividends Prohibited; Compensation and Benefits Permitted.**

A corporation shall not have or issue shares of stock. No dividend shall be paid and no part of the income or profit of a corporation shall be distributed to its members, directors or officers. A corporation may pay compensation in a reasonable amount to its members, directors, or officers for services rendered, may confer benefits upon its members in conformity with its purposes, and upon dissolution or final liquidation may make distributions to its members as permitted by this Act, and no such payment, benefit or distribution shall be deemed to be a dividend or a distribution of income or profit.

#### **Section 30. Loans to Directors and Officers Prohibited.**

No loans shall be made by a corporation to its directors or officers. Any director or officer who assents to or participates in the making of any such loan shall be liable to the corporation for the amount of such loan until the repayment thereof.

#### **Section 31. Incorporators.**

One or more persons, partnerships, domestic corporations or foreign corporations, whether for profit or not for profit, may act as incorporator or incorporators of a corporation by signing the articles of incorporation and delivering the same to the probate judge of the

county in which the corporation is to have its initial registered office.

**Section 32. Articles of Incorporation.**

(a) The articles of incorporation shall set forth:

(1) The name of the corporation.

(2) The period of duration, which may be perpetual.

(3) The purpose or purposes for which the corporation is organized.

(4) If the corporation is to have no members, a statement to that effect.

(5) Any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision for distribution of assets on dissolution or final liquidation.

(6) The location and mailing address of its initial registered office, and the name of its initial registered agent at such address.

(7) The number of directors constituting the initial board of directors, and the names and addresses of the persons who are to serve as the initial directors.

(8) The name and address of each incorporator.

(b) It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this Act.

(c) Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the bylaws shall be controlling. In all other cases, whenever a provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling.

**Section 33. Filing of Articles of Incorporation.**

(a) The articles of incorporation and two copies thereof shall be delivered to the probate judge. If the probate judge finds that the articles of incorporation conform to law, he shall, when all fees prescribed in this Act have been paid:

(1) Endorse on the articles of incorporation and on each of such copies the word "Filed," and the hour, day, month and year of the filing thereof.

(2) File the articles of incorporation in his office and certify the two copies thereof.

(3) Issue a certificate of incorporation to which he shall affix one certified copy of the articles of incorporation, and return such certificate of incorporation with the certified copy of the articles of incorporation affixed thereto to the incorporators or their representative.

(4) Within 10 days after the issuance of the certificate of incorporation transmit to the secretary of state a copy of the certificate of incorporation with a certified copy of the articles of incorporation attached thereto, indicating thereon the place, date and time of filing of the articles of incorporation.

(b) For failure of the probate judge to comply with the requirement in subsection (a) (4) of this section, the probate judge shall forfeit \$50.00 to the State of Alabama, to be recovered in an action by the State of Alabama.

#### **Section 34. Effect of Filing Articles of Incorporation and Issuance of Certificate of Incorporation.**

Upon the filing of the articles of incorporation with the probate judge, the corporate existence shall begin. The certificate of incorporation issued by the probate judge shall be conclusive evidence that the corporation has been incorporated under this Act, except as against the State of Alabama in a proceeding to cancel or revoke the certificate of incorporation or for involuntary dissolution of the corporation.

#### **Section 35. Organization Meetings.**

(a) After the filing of the articles of incorporation, an organizational meeting of the board of directors named in the articles of incorporation shall be held, either within or without Alabama, at the call of a majority of the directors for the purpose of adopting by-laws, electing officers and transacting such other business as may come before the meeting. The directors calling the meeting shall give at least three days' notice thereof by mail to each director so named, which notice shall state the time and place of the meeting.

(b) A first meeting of the members may be held at the call of the directors, or a majority of them, upon at least three days' notice, for such purposes as shall be stated in the notice of the meeting.

#### **Section 36. Right to Amend Articles of Incorporation.**

A corporation may amend its articles of incorporation, from time to time, in any and as many respects as may be desired, so long as its articles of incorporation as amended contain only such provisions as are lawful under this Act.

**Section 37. Procedure to Amend Articles of Incorporation.**

(a) Amendments to the articles of incorporation shall be made in the following manner:

(1) If there are members entitled to vote thereon, the board of directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of members entitled to vote thereon, which may be either an annual or a special meeting. Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member entitled to vote at such meeting within the time and in the manner provided in this Act for the giving of notice of meetings of members. The proposed amendment shall be adopted upon receiving at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meeting.

(2) If there are no members, or no members entitled to vote thereon, an amendment shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office.

(b) Any number of amendments may be submitted and voted upon at any one meeting.

**Section 38. Articles of Amendment.**

The articles of amendment shall be executed for the corporation by its president or a vice-president, and by its secretary or an assistant secretary, and verified by one of the officers signing such articles, and shall set forth:

(1) The name of the corporation.

(2) The amendment so adopted.

(3) If there are members entitled to vote thereon, (i) a statement setting forth the date of the meeting of members at which the amendment was adopted, that a quorum was present at such meeting, and that such amendment received at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meeting, or (ii) a statement that such amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto.

(4) If there are no members, or no members entitled to vote thereon, a statement of such fact, the date of the meeting of the board of directors at which the amendment was adopted, and a statement of the fact that such amendment received the vote of a majority of the directors in office.



**Section 39. Filing and Effectiveness of Articles of Amendment.**

(a) The articles of amendment and a copy thereof, or if the articles of amendment change the name of the corporation two copies thereof, shall be delivered to the probate judge. If the probate judge finds that the articles of amendment conform to law, he shall, when all fees prescribed in this Act have been paid:

(1) Endorse on the articles of amendment and on the copy or copies thereof the word "Filed," and the hour, day, month and year of the filing thereof.

(2) File the articles of amendment in his office and certify the copy or copies thereof.

(3) Issue a certificate of amendment to which he shall affix a certified copy of the articles of amendment, and return such certificate of amendment with a certified copy of the articles of amendment affixed thereto to the corporation or its representative.

(4) If the articles of amendment change the name of the corporation, within 10 days after the issuance of the certificate of amendment transmit to the secretary of state a certificate of amendment with a certified copy of the articles of amendment attached thereto, indicating thereon the place, date and time of filing of the articles of amendment.

(5) For failure of the probate judge to comply with the requirements of subsection (a) (4) of this Section, the probate judge shall forfeit \$50.00 to the State of Alabama to be recovered in an action by the State of Alabama.

(b) Upon the filing of the articles of amendment, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

(c) No amendment shall effect any existing cause of action in favor of or against such corporation, or any pending suit to which such corporation shall be a party, or the existing rights of persons other than members; and, in the event the corporate name shall be changed by amendment, no suit brought by or against such corporation under its former name shall abate for that reason.

**Section 40. Restated Articles of Incorporation.**

(a) A domestic corporation may at any time restate its articles of incorporation as theretofore amended, in the following manner:

(1) If there are members entitled to vote thereon, the board of directors shall adopt a resolution setting forth the proposed restated articles of incorporation and directing that they be submitted to a

vote at a meeting of members entitled to vote thereon, which may be either an annual or a special meeting.

(2) Written notice setting forth the proposed restated articles or a summary of the provisions thereof shall be given to each member entitled to vote thereon, within the time and in the manner provided in this Act for the giving of notice of meetings of members. If the meeting is an annual meeting, the proposed restated articles or a summary of the provisions thereof may be included in the notice of such annual meeting.

(3) At such meeting a vote of the members entitled to vote thereon shall be taken on the proposed restated articles, which shall be adopted upon receiving the affirmative vote of a majority of the votes entitled to be cast by members present or represented by proxy at such meeting.

(4) If there are no members, or no members entitled to vote thereon, the proposed restated articles shall be adopted at a meeting of the board of directors upon receiving the affirmative vote of a majority of the directors in office.

(b) Upon such approval, restated articles of incorporation shall be executed for the corporation, by its president or vice-president, and by its secretary or assistant secretary, and verified by one of the officers signing such articles, and shall set forth:

(1) The name of the corporation.

(2) The period of its duration.

(3) The purpose or purposes which the corporation is authorized to pursue.

(4) Any other provisions, not inconsistent with law, which are then set forth in the articles of incorporation as theretofore amended, except that it shall not be necessary to set forth in the restated articles of incorporation the registered office of the corporation, its registered agent, its directors or its incorporators.

(5) The restated articles of incorporation shall state that they correctly set forth the provisions of the articles of incorporation as theretofore amended, that they have been duly adopted as required by law and that they supersede the original articles of incorporation and all amendments thereto.

(c) The restated articles of incorporation and a copy thereof shall be delivered to the probate judge. If the probate judge finds that such restated articles of incorporation conform to law, he shall, when all fees prescribed in this Act have been paid:

(1) Endorse on the restated articles of incorporation and on

the copy thereof the word "Filed," and the hour, day, month and year of filing thereof.

(2) File the restated articles of incorporation in his office and certify the copy thereof.

(3) Issue a restated certificate of incorporation, to which he shall affix the certified copy of the restated articles of incorporation and return such restated certificate of incorporation with the certified copy of the restated articles of incorporation affixed thereto to the corporation or its representative.

(d) Upon the filing of the restated articles of incorporation, the restated articles of incorporation shall become effective and shall supersede the original articles of incorporation and all amendments thereto.

#### **Section 41. Procedure for Merger.**

(a) Any two or more domestic corporations may merge into one of such corporations pursuant to a plan of merger approved in the manner provided in this Act.

(b) Each corporation shall adopt a plan of merger setting forth:

(1) The names of the corporations proposing to merge, and the name of the corporation into which they propose to merge, which is hereinafter designated as the surviving corporation.

(2) The terms and conditions of the proposed merger.

(3) A statement of any changes in the articles of incorporation of the surviving corporation to be effected by such merger.

(4) Such other provisions with respect to the proposed merger as are deemed necessary or desirable.

#### **Section 42. Procedure for Consolidation.**

(a) Any two or more domestic corporations may consolidate into a new corporation pursuant to a plan of consolidation approved in the manner provided in this Act.

(b) Each corporation shall adopt a plan of consolidation setting forth:

(1) The names of the corporations proposing to consolidate, and the name of the new corporation into which they propose to consolidate, which is hereinafter designated as the new corporation.

(2) The terms and conditions of the proposed consolidation.

(3) With respect to the new corporation, all of the statements

required to be set forth in the articles of incorporation for corporations organized under this Act.

(4) Such other provisions with respect to the proposed consolidation as are deemed necessary or desirable.

#### **Section 43. Approval of Merger or Consolidation.**

(a) A plan of merger or consolidation shall be adopted in the following manner:

(1) If the members of any merging or consolidating corporation are entitled to vote thereon, the board of directors of such corporation shall adopt a resolution approving the proposed plan and directing that it be submitted to a vote at a meeting of members entitled to vote thereon, which may be either an annual or a special meeting. Written notice setting forth the proposed plan or a summary thereof shall be given to each member entitled to vote at such meeting within the time and in the manner provided in this Act for the giving of notice of meeting of members. The proposed plan shall be adopted upon receiving at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meeting.

(2) If any merging or consolidating corporation has no members, or no members entitled to vote thereon, a plan of merger or consolidation shall be adopted at a meeting of the board of directors of such corporation upon receiving the vote of a majority of the directors in office.

(b) After such approval, and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation.

#### **Section 44. Articles of Merger or Consolidation.**

(a) Upon such approval, articles of merger or articles of consolidation shall be executed for each corporation by its president or a vice-president, and by its secretary or an assistant secretary, and verified by one of the officers signing such articles, and shall set forth:

(1) The plan of merger or the plan of consolidation.

(2) If the members of any merging or consolidating corporation are entitled to vote thereon, then as to each such corporation (i) a statement setting forth the date of the meeting of members at which the plan was adopted, that a quorum was present at such meeting, and that such plan received at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meeting, or (ii) a statement that such amendment was adopted

by a consent in writing signed by all members entitled to vote with respect thereto.

(3) If any merging or consolidating corporation has no members, or no members entitled to vote thereon, then as to each such corporation a statement of such fact, the date of the meeting of the board of directors at which the plan was adopted and a statement of the fact that such plan received the vote of a majority of the directors in office.

(4) As to each corporation incorporated under the law of Alabama, the county in which its articles of incorporation or other comparable charter document is filed.

(b) The articles of merger or articles of consolidation, two copies thereof and such additional number of copies as may be required for purposes of this section, shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, he shall, when all fees prescribed in this Act have been paid:

(1) Endorse on the articles and on each of such copies the word "Filed," and the hour, day, month and year of the filing thereof.

(2) File the articles in his office and certify the copies thereof.

(3) Issue a certificate of merger or a certificate of consolidation to which he shall affix one certified copy of the articles, and return such certificate of merger or certificate of consolidation together with the certified copy of the articles affixed thereto to the surviving or new corporation, as the case may be, or its representative.

(4) Promptly transmit a certified copy of the articles of merger or articles of consolidation together with a copy of the certificate of merger or certificate of consolidation to the probate judge of the county in which each of the corporations' articles of incorporation or other comparable charter document is filed, there to be recorded in a book to be kept for that purpose.

#### **Section 45. Effect of Merger or Consolidation.**

(a) Upon the issuance of the certificate of merger, or the certificate of consolidation by the secretary of state, the merger or consolidation shall be effected.

(b) When such merger or consolidation has been effected:

(1) The corporations, parties to the plan of merger or consolidation, shall become a single corporation, which, in the case of a merger, shall be that corporation designated in the plan of merger as the surviving corporation, and, in the case of a consolidation, shall be the new corporation provided for in the plan of consolidation.

(2) The separate existence of all corporations parties to the plan of merger or consolidation, except the surviving or new corporation, shall cease.

(3) Such surviving or new corporation shall have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a corporation organized under this Act.

(4) Such surviving or new corporation shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises of a public as well as of a private nature, of each of the merging or consolidating corporations; and all property, real, personal and mixed, and all debts due on whatever account, and all other choses in action, and all and every other interest, of or belonging to or due to each of the corporations so merged or consolidated, shall be taken and deemed to be transferred to and vested in such single corporation without further act or deed; and the title to any real estate, or any interest therein, vested in any of such corporations shall not revert or be in any way impaired by reason of such merger or consolidation.

(5) Such surviving or new corporation shall thenceforth be responsible and liable for all the liabilities and obligations of each of the corporations so merged or consolidated; and any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted as if such merger or consolidation had not taken place, or such surviving or new corporation may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such corporation shall be impaired by such merger or consolidation.

(6) In the case of a merger, the articles of incorporation of the surviving corporation shall be deemed to be amended to the extent, if any, that changes in its articles of incorporation are stated in the plan of merger; and, in the case of a consolidation, the statements set forth in the articles of consolidation and which are required or permitted to be set forth in the articles of incorporation of corporations organized under this Act shall be deemed to be the articles of incorporation of the new corporation.

#### **Section 46. Merger or Consolidation of Domestic and Foreign Corporations.**

(a) One or more foreign corporations and one or more domestic corporations may be merged or consolidated in the following manner, if such merger or consolidation is permitted by the laws of the state under which each such foreign corporation is organized:

(1) Each domestic corporation shall comply with the provisions of this Act with respect to the merger or consolidation, as the

case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized.

(2) If the surviving or new corporation, as the case may be, is to be governed by the laws of any state other than Alabama, it shall comply with the provisions of this Act with respect to foreign corporations if it is to conduct affairs in Alabama, and in every case it shall file with the secretary of state of Alabama (i) an agreement that it may be served with process in Alabama in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to such merger or consolidation; and (ii) an irrevocable appointment of the secretary of state of Alabama as its agent to accept service of process in any such proceeding.

(b) The effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations, if the surviving or new corporation is to be governed by the laws of Alabama. If the surviving or new corporation is to be governed by the laws of any state other than Alabama, the effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except in so far as the laws of the other state provide otherwise.

(c) After approval by the members or, if there be no members entitled to vote thereon, by the board of directors, and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation.

#### **Section 47. Sale, Lease, Exchange, or Mortgage of Assets.**

A sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all, the property and assets of a corporation may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any corporation for profit, domestic or foreign, as may be authorized in the following manner:

(1) If there are members entitled to vote thereon, the board of directors shall adopt a resolution recommending such sale, lease, exchange, mortgage, pledge or other disposition and directing that it be submitted to a vote at a meeting of members entitled to vote thereon, which may be either an annual or a special meeting. Written notice stating that the purpose, or one of the purposes, of such meeting is to consider the sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all, the property and assets of the corporation shall be given to each member entitled to vote at such meeting, within the time and in the manner provided by this

Act for the giving of notice of meetings of members. At such meeting the members may authorize such sale, lease, exchange, mortgage, pledge or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor. Such authorization shall require at least two thirds of the votes entitled to be cast by members present or represented by proxy at such meeting. After such authorization by a vote of members, the board of directors, nevertheless, in its discretion, may abandon such sale, lease, exchange, mortgage, pledge or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by members.

(2) If there are no members, or no members entitled to vote thereon, a sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all, the property and assets of a corporation shall be authorized upon receiving the vote of a majority of the directors in office.

#### **Section 48. Voluntary Dissolution.**

(a) A corporation may dissolve and wind up its affairs in the following manner:

(1) If there are members entitled to vote thereon, the board of directors shall adopt a resolution recommending that the corporation be dissolved, and directing that the question of such dissolution be submitted to a vote at a meeting of members entitled to vote thereon, which may be either an annual or a special meeting. Written notice stating that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation, shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this Act for the giving of notice of meetings of members. A resolution to dissolve the corporation shall be adopted upon receiving at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meeting.

(2) If there are no members, or no members entitled to vote thereon, the dissolution of the corporation shall be authorized at a meeting of the board of directors upon the adoption of a resolution to dissolve by the vote of a majority of the directors in office.

(b) Upon the adoption of such resolution by the members, or by the board of directors if there are no members or no members entitled to vote thereon, a statement of intent to dissolve shall be executed to vote thereon, a statement of intent to dissolve shall be executed for the corporation by its president or a vice-president, and



by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

- (1) The name of the corporation.
- (2) The names and respective addresses of its officers.
- (3) The names and respective addresses of its directors.
- (4) If there are members entitled to vote thereon, (i) a statement setting forth the date of the meeting of members at which the resolution to dissolve was adopted, that a quorum was present at such meeting, and that such resolution received at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meeting, or (ii) a statement that such resolution was adopted by a consent in writing signed by all members entitled to vote with respect thereto.
- (5) If there are no members, or no members entitled to vote thereon, a statement of such fact, the date of the meeting of the board of directors at which the resolution to dissolve was adopted and a statement of the fact that such resolution received the vote of a majority of the directors in office.

(c) The statement of intent to dissolve shall be delivered to the probate judge. If the probate judge finds that such statement conforms to law, he shall, when all fees prescribed in this Act have been paid:

(1) Endorse on the statement of intent to dissolve the word "Filed," and the hour, day, month and year of the filing thereof.

(2) File the statement of intent to dissolve in his office.

(d) Upon the filing of a statement of intent to dissolve, the corporation shall cease to conduct its affairs except in so far as may be necessary for the winding up thereof, and shall proceed to collect its assets and apply and distribute them as provided in this Act.

#### **Section 49. Distribution of Assets.**

The assets of a corporation in the process of dissolution shall be applied and distributed as follows:

(1) All liabilities and obligations of the corporation shall be paid and discharged, or adequate provision shall be made therefor;

(2) Assets held by the corporation upon condition requiring return, transfer of conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred or conveyed in accordance with such requirements;

(3) Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosy-

nary, benevolent, educational or similar purposes, but not held upon a condition requiring return, transfer or conveyance by reason of the dissolution, shall be transferred or conveyed to one or more domestic or foreign corporations, societies or organizations engaged in activities substantially similar to those of the dissolving corporation, pursuant to a plan of distribution adopted as provided in this Act;

(4) Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the bylaws to the extent that the articles of incorporation or bylaws determine the distributive rights of members, or any class or classes of members, or provide for distribution to others;

(5) Any remaining assets may be distributed to such persons, societies, organizations or domestic or foreign corporations, whether for profit or nonprofit, as may be specified in a plan of distribution adopted as provided in this Act.

#### **Section 50. Plan of Distribution.**

A plan providing for the distribution of assets, not inconsistent with the provisions of this Act, may be adopted by a corporation in the process of dissolution and shall be adopted by a corporation for the purpose of authorizing any transfer or conveyance of assets for which this Act requires a plan of distribution, in the following manner:

(1) If there are members entitled to vote thereon, the board of directors shall adopt a resolution recommending a plan of distribution and directing the submission thereof to a vote at a meeting of members entitled to vote thereon, which may be either an annual or a special meeting. Written notice setting forth the proposed plan of distribution or a summary thereof shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this Act of the giving of notice of meetings of members. Such plan of distribution shall be adopted upon receiving at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meeting.

(2) If there are no members, or no members entitled to vote thereon, a plan of distribution shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office.

#### **Section 51. Revocation of Voluntary Dissolution Proceedings.**

(a) A corporation may, at any time prior to the issuance of a certificate of dissolution by the probate judge, revoke the action

therefore taken to dissolve the corporation, in the following manner:

(1) If there are members entitled to vote thereon, the board of directors shall adopt a resolution recommending that the voluntary dissolution proceeding be revoked, and directing that the question of such revocation be submitted to a vote at a meeting of members entitled to vote thereon, which may be either an annual or a special meeting. Written notice stating that the purpose, or one of the purposes, of such meeting is to consider the advisability of revoking the voluntary dissolution proceedings, shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this Act for the giving of notice of meetings of members. A resolution to revoke the voluntary dissolution proceedings shall be adopted upon receiving at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meeting.

(2) If there are no members, or no members entitled to vote thereon, a resolution to revoke the voluntary dissolution proceedings shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office.

(b) Upon the adoption of such resolution by the members, or by the board of directors where there are no members or no members entitled to vote thereon, a statement of revocation of voluntary dissolution proceedings shall be executed for the corporation by its president or a vice-president, and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, which statement shall set forth:

- (1) The name of the corporation.
- (2) The names and respective addresses of its officers.
- (3) The names and respective addresses of its directors.

(4) If there are members entitled to vote thereon, (i) a statement setting forth the date of the meeting of members at which the resolution to revoke the voluntary dissolution proceedings was adopted, that a quorum was present at such meeting, and that such resolution received at least two-thirds of the votes entitled to be cast by members present or represented by proxy at such meeting, or (ii) a statement that such resolution was adopted by a consent in writing signed by all members entitled to vote with respect thereto.

(5) If there are no members, or no members entitled to vote thereon, a statement of such fact, the date of the meeting of the board of directors at which the resolution to revoke the voluntary dissolution proceedings was adopted and a statement of the fact

that such resolution received the vote of a majority of the directors in office.

(c) The statement of revocation of voluntary dissolution proceedings shall be delivered to the probate judge. If the probate judge finds that such statement conforms to law, he shall, when all fees prescribed in this Act have been paid:

(1) Endorse on the statement of revocation of voluntary dissolution proceedings the word "Filed," and the hour, day, month and year of the filing thereof.

(2) File the statement of revocation of voluntary dissolution proceedings in his office.

(d) Upon the filing of a statement of revocation of voluntary dissolution proceedings, the corporation may thereupon again conduct its affairs.

## **Section 52. Articles of Dissolution.**

If voluntary dissolution proceedings have not been revoked, then when all debts, liabilities and obligations of the corporation shall have been paid and discharged, or adequate provision shall have been made therefor, and all of the remaining property and assets of the corporation shall have been transferred, conveyed or distributed in accordance with the provision of this Act, articles of dissolution shall be executed for the corporation by its president or a vice-president, and by its secretary or an assistant secretary, and verified by one of the officers signing such articles, which statement shall set forth:

(1) The name of the corporation.

(2) That a statement of intent to dissolve the corporation has theretofore been filed, and the date on which such statement was filed.

(3) That all debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor.

(4) A copy of the plan of distribution, if any, as adopted by the corporation, or a statement that no plan was so adopted.

(5) That all the remaining property and assets of the corporation have been transferred, conveyed or distributed in accordance with the provision of this Act.

(6) That there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit.

**Section 53. Filing of Articles of Dissolution.**

(a) The articles of dissolution and two copies thereof shall be delivered to the probate judge. If the probate judge finds that such articles of dissolution conform to law, he shall, when all fees prescribed in this Act have been paid:

(1) Endorse on the articles of dissolution and on each of such copies the word "Filed," and the hour, day, month and year of the filing thereof.

(2) File the articles of dissolution in his office and certify the two copies thereof.

(3) Issue a certificate of dissolution to which he shall affix a certified copy of the articles of dissolution, and return such certificate of dissolution with a certified copy of articles of dissolution affixed thereto to the representative of the dissolved corporation.

(4) Within 10 days after the issuance of the certificate of dissolution, transmit to the secretary of state a certificate of dissolution with a certified copy of the articles of dissolution attached thereto, indicating thereon the place, date and time of filing of such statement.

(b) For failure of the probate judge to comply with the requirements of subsection (a) (4) of this section, the probate judge shall forfeit \$50.00 to the State of Alabama to be recovered in an action by the State of Alabama.

(c) Upon the issuance of such certificate of dissolution, the existence of the corporation shall cease, except for the purpose of suits, other proceedings and appropriate corporate action by members, directors and officers as provided in this Act.

**Section 54. Involuntary Dissolution.**

A corporation may be dissolved involuntarily by an order of the circuit court of the county in which the registered office of the corporation is situated in an action filed by the attorney general when it is established that:

(1) The corporation procured its articles of incorporation through fraud;

(2) The corporation has continued to exceed or abuse the authority conferred upon it by law;

(3) The corporation has failed for 90 days to appoint and maintain a registered agent in Alabama; or

(4) The corporation has failed for 90 days after change of its

registered agent to file in the office of the probate judge a statement of such change.

### **Section 55. Notification to Attorney General.**

The secretary of state shall certify to the attorney general, from time to time, the names of all corporations which have given cause for dissolution as provided in this Act, together with the facts pertinent thereto. Whenever the secretary of state shall certify the name of a corporation to the attorney general as having given any cause for dissolution, the secretary of state shall concurrently mail to the corporation at its registered office a notice that such certification has been made. Upon the receipt of such certification, the attorney general shall, no sooner than 30 days nor more than 90 days after such receipt, file an action in the name of the State of Alabama against such corporation for its dissolution. If, before an action is filed, the corporation shall appoint or maintain a registered agent as provided in this Act, or shall file with the probate judge the required statement of change of registered agent, such fact shall be forthwith certified by the secretary of state to the attorney general and he shall not file an action against such corporation for such cause. If, after an action is filed, the corporation shall appoint or maintain a registered agent as provided in this Act, or shall file with the probate judge the required statement of change of registered agent, and shall pay the costs of such action, the action for such cause shall abate.

### **Section 56. Venue and Process.**

Every action for the involuntary dissolution of a corporation shall be commenced by the attorney general in the circuit court of the county in which the registered office of the corporation is situated. Summons shall issue and be served as in other civil actions. If process is returned not found, the attorney general shall cause publication to be made as in other civil cases in some newspaper published in the county where the registered office of the corporation is situated, containing a notice of the pendency of such action, the title of the court, the title of the action, and the date on or after which default may be entered. The attorney general may include in one notice the names of any number of corporations against which actions are then pending in the same court. The attorney general shall cause a copy of such notice to be mailed to the corporation at its registered office within 10 days after the first publication thereof. The certificate of the attorney general of the mailing of such notice shall be prima facie evidence thereof. Such notice shall be published once each week for two successive weeks, and the first publication thereof may begin at any time after the summons has been returned. Unless a corporation shall have been served with summons, no de-

fault shall be taken against it earlier than 30 days after the last publication of such notice.

**Section 57. Jurisdiction of Court to Liquidate Assets and Affairs of Corporation.**

(a) The circuit court of the county in which the registered office of the corporation is situated shall have full power to liquidate the assets and affairs of a corporation:

(1) In an action by a member or director when it is established:

(a) That the directors are deadlocked in the management of the corporate affairs and that irreparable injury to the corporation is being suffered or is threatened by reason thereof, and either that the members are unable to break the deadlock or there are no members having voting rights;

(b) That the acts of the directors or those in control of the corporation are illegal, oppressive or fraudulent;

(c) That the members entitled to vote in the election of directors are deadlocked in voting power and have failed for at least two years to elect successors to directors whose terms have expired or would have expired upon the election of their successors;

(d) That the corporate assets are being misapplied or wasted;  
or

(e) That the corporation is unable to carry out its purposes.

(2) In an action by a creditor:

(a) When the claim of the creditor has been reduced to judgment and an execution thereon has been returned unsatisfied and it is established that the corporation is insolvent; or

(b) When the corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is insolvent.

(3) Upon application by a corporation to have its dissolution continued under the supervision of the court.

(4) When an action has been filed by the attorney general to dissolve a corporation and it is established that liquidation of its affairs should precede the entry of an order of dissolution.

(b) Proceedings under this section shall be brought in the county in which the registered office of the corporation is situated.

(c) It shall not be necessary to make directors or members

parties to any such action or proceedings unless relief is sought against them personally.

**Section 58. Procedure in Liquidation of Corporation by Court.**

(a) In proceedings to liquidate the assets and affairs of a corporation, the court shall have the power to issue restraining orders or injunctions, to appoint a receiver or receivers *pendente lite*, with such powers and duties as the court, from time to time, may direct, and to take such other proceedings as may be requisite to preserve the corporate assets wherever situated, and carry on the affairs of the corporation until a full hearing can be had.

(b) After a hearing had upon such notice as the court may direct to be given to all parties to the proceedings and to any other parties in interest designated by the court, the court may appoint a liquidating receiver or receivers with authority to collect the assets of the corporation. Such liquidating receiver or receivers shall have authority, subject to the order of the court, to sell, convey and dispose of all or any part of the assets of the corporation wherever situated, either at public or private sale. The order appointing such liquidating receiver or receivers shall state their powers and duties. Such powers and duties may be increased or diminished at any time during the proceedings.

(c) The assets of the corporation or the proceeds resulting from a sale, conveyance, or other disposition thereof shall be applied and distributed as follows:

(1) All costs and expenses of the court proceedings and all liabilities and obligations of the corporation shall be paid, satisfied and discharged, or adequate provision shall be made therefor;

(2) Assets held by the corporation upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution or liquidation, shall be returned, transferred or conveyed in accordance with such requirements;

(3) Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational or similar purposes, but not held upon a condition requiring return, transfer or conveyance by reason of the dissolution or liquidation, shall be transferred or conveyed to one or more domestic or foreign corporation, societies or organizations engaged in activities substantially similar to those of the dissolving or liquidating corporation as the court may direct;

(4) Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the bylaws to the



extent that the articles of incorporation or bylaws determine the distributive right of members, or any class or classes of members, or provide for distribution to others; and

(5) Any remaining assets may be distributed to such persons, societies, organizations or domestic or foreign corporations, whether for profit or not for profit, specified in the plan of distribution adopted as provided in this Act, or where no plan of distribution has been adopted, as the court may direct.

(d) The court shall have power to allow, from time to time, as expenses of the liquidation compensation to the receiver or receivers and to attorneys in the proceeding, and to direct the payment thereof out of the assets of the corporation or the proceeds of any sale or disposition of such assets.

(e) A receiver of a corporation appointed under the provisions of this section shall have authority to sue and defend in all courts in his own name as receiver of such corporation. The court appointing such receiver shall have exclusive jurisdiction of the corporation and its property, wherever situated.

#### **Section 59. Qualification of Receivers.**

A receiver shall be a natural person, a partnership, a professional association, a professional corporation, or a corporation for profit authorized to act as receiver, which corporation may be a domestic corporation or a foreign corporation authorized to transact business in Alabama, and shall in all cases give such bond as the court may direct with such sureties as the court may require.

#### **Section 60. Filing of Claims in Liquidation Proceedings.**

In proceedings to liquidate the assets and affairs of a corporation, the court may require all creditors of the corporation to file with the clerk of the court or with the receiver, in such form as the court may prescribe, proofs under oath of their respective claims. If the court requires the filing of claims, it shall fix a date, which shall be not less than four months from the date of the order, as the last day for the filing of claims, and shall prescribe the notice that shall be given to creditors and claimants of the date so fixed. Prior to the date so fixed, the court may extend the time for the filing of claims. Creditors and claimants failing to file proofs of claim on or before the date so fixed may be barred, by order of court, from participating in the distribution of the assets of the corporation.

#### **Section 61. Discontinuance of Liquidation Proceedings.**

The liquidation of the assets and affairs of a corporation may be discontinued at anytime during the liquidation proceedings when it is established that cause for liquidation no longer exists. In such

event, the court shall dismiss the proceedings and direct the receiver to redeliver to the corporation all its remaining property and assets.

**Section 62. Order of Involuntary Dissolution.**

In proceedings to liquidate the assets and affairs of a corporation, when the costs and expenses of such proceedings and all debts, obligations, and liabilities of the corporation shall have been paid and discharged and all of its remaining property and assets distributed in accordance with the provisions of this Act, or in case its property and assets are not sufficient to satisfy and discharge such costs, expenses, debts, and obligations, and all the property and assets have been applied so far as they will go to their payment, the court shall enter an order dissolving the corporation, whereupon the existence of the corporation shall cease.

**Section 63. Filing of Order of Dissolution.**

In case the court shall enter an order dissolving a corporation, it shall be the duty of such court to cause a certified copy of the order to be filed with the probate judge in the county in which the articles of incorporation were filed and with the secretary of state. No fee shall be charged by the probate judge or the secretary of state for the filing thereof.

**Section 64. Deposits with State Treasurer.**

Upon the voluntary or involuntary dissolution of a corporation, the portion of the assets distributable to any person who is unknown or cannot be found, or who is under disability and there is no person legally competent to receive such distributive portion, shall be reduced to cash and deposited with the state treasurer and shall be paid over to such person or to his legal representative upon satisfactory proof to the state treasurer of his right thereto. Such cash shall be held for the owner by the state treasurer for three years and any such cash which remains unclaimed by the owner after three years shall be presumed abandoned and subject to the provisions of the Uniform Disposition of Unclaimed Property Act.

**Section 65. Survival of Remedy After Dissolution.**

The dissolution of a corporation either (1) by the issuance of a certificate of dissolution by the probate judge, or (2) by an order of court when the court has not liquidated the assets and affairs of the corporation as provided in this Act, or (3) by operation of law, or (4) by expiration of its period of duration, shall not take away or impair any remedy available to or against such corporation, its directors, officers, or members, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within two years after the date of such dissolution.

Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The members, directors and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right or claim. If such corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during such period of two years so as to extend its period of duration.

### **Section 66. Admission of Foreign Corporation.**

No foreign corporation shall have the right to conduct affairs in Alabama until it shall have procured a certificate of authority to do so from the secretary of state. No foreign corporation shall be entitled to procure a certificate of authority under this Act to conduct in Alabama any affairs which a corporation organized under this Act is prohibited from conducting. A foreign corporation shall not be denied a certificate of authority because the laws of the state or country under which such corporation is organized and its internal affairs are governed differ from the laws of Alabama, and nothing in this Act shall be construed to authorize Alabama to regulate the organization or the internal affairs of such corporation.

### **Section 67. Powers of Foreign Corporation.**

A foreign corporation which shall have received a certificate of authority under this Act shall, until a certificate of revocation or of withdrawal shall have been issued as provided in this Act, enjoy the same, but no greater, rights and privileges as a domestic corporation organized for the purposes set forth in the application pursuant to which such certificate of authority is issued; and, except as otherwise provided in this Act, shall be subject to the same duties, restrictions, penalties and liabilities now or hereafter imposed upon a domestic corporation of like character.

### **Section 68. Corporate Name of Foreign Corporation.**

The corporate name of a foreign corporation:

(1) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

(2) Shall not be the same as, or deceptively similar to, the name of any corporation, whether for profit or not for profit, existing under the laws of Alabama, or any foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in Alabama, or a corporate name reserved or registered as permitted by the laws of Alabama.

(3) Shall be transliterated into letters of the English alphabet, if it is not in English.

**Section 69. Application For Certificate of Authority.**

(a) A foreign corporation, in order to procure a certificate of authority to conduct affairs in Alabama, shall make application therefor to the secretary of state, which application shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated.

(2) The date of incorporation and the period of duration of the corporation.

(3) The address of the principal office of the corporation in the state or country under the laws of which it is incorporated.

(4) The location and mailing address of the proposed registered office of the corporation in Alabama, and the name of its proposed registered agent in Alabama at such address.

(5) The purpose or purposes the corporation proposes to pursue in conducting its affairs in Alabama.

(6) The names and respective addresses of the directors and officers of the corporation.

(7) Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine whether such corporation is entitled to a certificate of authority to conduct affairs in Alabama.

(b) Such application shall be made on forms prescribed and furnished by the secretary of state and shall be executed in duplicate for the corporation by its president or a vice-president, and by its secretary or an assistant secretary, and verified by one of the officers signing such application.

**Section 70. Filing of Application For Certificate of Authority.**

(a) The application of the foreign corporation for a certificate of authority and one copy thereof shall be delivered to the secretary of state, together with a certified copy of its articles of incorporation and all amendments thereto.

(b) If the secretary of state finds that such application conforms to law, he shall when all fees prescribed in this Act have been paid:

(1) Endorse on such application and on the copy thereof the word "Filed," and the hour, day, month and year or the filing thereof.

(2) File in his office the application and certified copy of the articles of incorporation and amendments thereto and certify the copy of such application.

(3) Issue a certificate of authority to conduct affairs in Alabama to which he shall affix the certified copy of the application, and return such certificate of authority with the certified copy of the application affixed thereto to the corporation or its representative.

#### **Section 71. Effect of Certificate of Authority.**

Upon the issuance of a certificate of authority by the secretary of state, the corporation shall be authorized to conduct affairs in Alabama for those purposes set forth in its application, subject, however, to the right of Alabama to suspend or to revoke such authority as provided in this Act.

#### **Section 72. Registered Office and Registered Agent of Foreign Corporation.**

Each foreign corporation authorized to conduct affairs in Alabama shall have and continuously maintain in Alabama:

(1) A registered office which may be, but need not be, the same as its principal office.

(2) A registered agent, which agent may be either an individual resident in Alabama whose business office is identical with such registered office, or a domestic corporation, whether for profit or not for profit, or a foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in Alabama, having an office identical with such registered office.

(3) The secretary of state shall keep an alphabetical list of foreign corporations, whose articles of incorporation and applications for certificate of authority are filed in said office, together with the data contained in such documents.

#### **Section 73. Change of Registered Office or Registered Agent of Foreign Corporation.**

(a) A foreign corporation authorized to conduct affairs in Alabama may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement setting forth:

(1) The name of the corporation.

(2) The location and mailing address of its then registered office.

(3) If the location or mailing address of its registered office is

changed, the location or mailing address to which the registered office is to be changed.

(4) The name of its registered agent.

(5) If its registered agent is changed, the name of its successor registered agent.

(6) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

(7) That such change was authorized by resolution duly adopted by its board of directors.

(b) Such statement shall be executed for the corporation by its president or a vice-president, verified by him and delivered to the secretary of state. If the secretary of state finds that such statement conforms to the provisions of this Act, he shall file such statement in his office, and upon such filing, the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

(c) Any registered agent in Alabama appointed by a foreign corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state who shall forthwith mail a copy thereof to the foreign corporation at its principal office in the state or country under the laws of which it is incorporated. The appointment of such agent shall terminate upon the expiration of 30 days after receipt of such notice by the secretary of state.

(d) If a registered agent changes his or its business address to another place within the same country, he or it may change such address and the address of the registered office of any corporations of which he or it is a registered agent by filing a statement as required above except that it need be signed only by the registered agent and need not be responsive to (a) (5) or (a) (7) and must recite that a copy of the statement has been mailed to each such corporation.

#### **Section 74. Service of Process on Foreign Corporation.**

(a) The registered agent so appointed by a foreign corporation authorized to conduct affairs in Alabama shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

(b) Whenever a foreign corporation authorized to conduct affairs in Alabama shall fail to appoint or maintain a registered agent in Alabama, or whenever any such registered agent cannot with reasonable diligence be found at the registered office, or whenever the certificate of authority of a foreign corporation shall be suspended

or revoked, then any process, notice of demand required or permitted by law to be served upon the corporation may be served as provided by the Alabama Rules of Civil Procedure.

(c) Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

**Section 75.** Amendment to Articles of Incorporation of Foreign Corporation.

Whenever the articles of incorporation of a foreign corporation authorized to conduct affairs in Alabama are amended, such foreign corporation shall, within 30 days after such amendment becomes effective, file in the office of the secretary of state a certified copy of such amendment, but, the filing thereof shall not of itself enlarge or alter the purpose or purposes which such corporation is authorized to pursue in conducting its affairs in Alabama, nor authorize such corporation to conduct affairs in Alabama under any other name than the name set forth in its certificate of authority.

**Section 76.** Merger of Foreign Corporation Authorized to Conduct Affairs in Alabama.

Whenever a foreign corporation authorized to conduct affairs in Alabama shall be a party to a statutory merger permitted by the laws of the state or country under the laws of which it is incorporated, and such corporation shall be the surviving corporation, it shall, within 30 days after such merger becomes effective, file with the secretary of state a certified copy of the articles of merger; it shall not be necessary for such corporation to procure either a new or amended certificate of authority to conduct affairs in Alabama unless the name of such corporation is changed thereby or unless the corporation desires to pursue in Alabama other or additional purposes than those which it is then authorized to pursue in Alabama.

**Section 77.** Amended Certificate of Authority.

(a) A foreign corporation authorized to conduct affairs in Alabama shall procure an amended certificate of authority in the event it changes its corporate name, or desires to pursue in Alabama other or additional purposes than those set forth in its prior application for a certificate of authority, by making application therefor to the secretary of state.

(b) The requirements in respect to the form and contents of such application, the manner of its execution, the filing thereof with the secretary of state, the issuance of an amended certificate of au-

thority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority.

**Section 78. Withdrawal of Foreign Corporation.**

(a) A foreign corporation authorized to conduct affairs in Alabama may withdraw from Alabama upon procuring from the secretary of state a certificate of withdrawal, in order to procure such certificate of withdrawal, such foreign corporation shall deliver to the secretary of state an application for withdrawal, which shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated.

(2) That the corporation is not conducting affairs in Alabama.

(3) That the corporation surrenders its authority to conduct affairs in Alabama.

(4) That the corporation revokes the authority of its registered agent in Alabama to accept service of process and consents that service of process in any action, suit or proceeding based upon any cause of action arising in Alabama during the time the corporation was authorized to conduct affairs in Alabama may thereafter be made on such corporation by service thereof on the secretary of state.

(5) A post-office address to which the secretary of state may mail a copy of any process against the corporation that may be served on him.

(6) Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine and assess any unpaid fees payable by such foreign corporation as prescribed in this Act.

(b) The application for withdrawal shall be made on forms prescribed and furnished by the secretary of state and shall be executed for the corporation by its president or a vice-president, and by its secretary or an assistant secretary, and verified by one or the officers signing the application or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee and verified by him.

**Section 79. Filing of Application For Withdrawal.**

(a) The application for withdrawal and one copy thereof shall be delivered to the secretary of state. If the secretary of state finds that such application conforms to the provisions of this Act, he shall, when all fees prescribed in this Act have been paid:

(1) Endorse on such application and on the copy thereof the



word "Filed," and the hour, day, month and year of the filing thereof.

(2) File the application in his office and certify the copy of the application.

(3) Issue a certificate of withdrawal to which he shall affix the certified copy of the application, and return such certificate of withdrawal with the certified copy of the application affixed thereto to the corporation or its representative.

(b) Upon the issuance of such certificate of withdrawal by the secretary of state, the authority of the corporation to conduct affairs in Alabama shall cease.

### **Section 80. Revocation of Certificate of Authority.**

(a) The certificate of authority of a foreign corporation to conduct affairs in Alabama may be revoked by the secretary of state upon the conditions prescribed in this section when:

(1) The corporation has failed to pay any fees prescribed by this Act when they have become due and payable;

(2) The corporation has failed to appoint and maintain a registered agent in Alabama as required by this Act;

(3) The corporation has failed, after change of its registered agent, to file in the office of the secretary of state a statement of such change as required by this Act;

(4) The corporation has failed to file in the office of the secretary of state any amendment to its articles of incorporation or any articles of merger within the time prescribed by this Act;

(5) The certificate of authority of the corporation was procured through fraud practiced upon the State of Alabama;

(6) The corporation has continued to exceed or abuse the authority conferred upon it by this Act; or

(7) A misrepresentation has been made of any material matter in any application, statement, affidavit, or other document submitted by such corporation pursuant to this Act.

(b) No certificate of authority of a foreign corporation shall be revoked by the secretary of state unless (i) he shall have given the corporation not less than 60 days' notice thereof by mail addressed to its registered office in Alabama, and (ii) the corporation, having exhausted its administrative and judicial remedies, shall fail prior to revocation to pay such fees, or file the required statement of change of registered agent, or file such articles of amendment or articles of merger, or correct such misrepresentation.

### **Section 81. Issuance of Certificate of Revocation.**

(a) Upon revoking any such certificate of authority, the secretary of state shall:

- (1) Issue a certificate of revocation.
- (2) File the certificate of revocation in his office and certify a copy thereof.

(3) Mail to such corporation at its registered office in Alabama a notice of such revocation accompanied by the certified copy of the certificate of revocation.

(b) Upon the issuance of such certificate of revocation, the authority of the corporation to conduct affairs in Alabama shall cease.

### **Section 82. Conducting Affairs Without Certificate of Authority.**

(a) All contracts or agreements made or entered into in Alabama by foreign corporations which have not obtained a certificate of authority to conduct affairs in Alabama shall be held void at the action of such foreign corporation or any person claiming through or under such foreign corporation by virtue of said void contract or agreement; but nothing in this section shall abrogate the equitable rule that he who seeks equity must do equity; provided, that the failure of a foreign corporation to obtain a certificate of authority shall not impair the validity of any contract or agreement heretofore or hereafter entered into and consisting of a mortgage upon real property or an interest in real property in Alabama, and the note secured thereby, where the mortgage is insured by the Federal Housing Administration or guaranteed by the Veterans Administration, if said foreign corporation shall have thereafter obtained a certificate of authority. In all actions against such foreign corporation, or against any person claiming under such foreign corporation by virtue of such void contract, the foreign corporation or such person claiming under it shall be held to be estopped from setting up the fact that the contract or agreement was so made in violation of law. In all actions against foreign corporations which have not obtained a certificate of authority, the summons or other process may be served upon the officer, agent or employee of the foreign corporation who acted for or represented such foreign corporation in making the contract or agreement sued upon.

(b) A foreign corporation which conducts affairs in Alabama without a certificate of authority shall be liable to Alabama, for the years or parts thereof during which it conducted affairs in Alabama without a certificate of authority, in an amount equal to all fees which would have been imposed by this Act upon such corporation

had it duly applied for and received a certificate of authority to conduct affairs in Alabama as required by this Act and thereafter filed all statements or other documents required by this Act. The attorney general shall bring proceedings to recover all amounts due Alabama under the provisions of this section.

**Section 83. Fees For Filing Documents and Issuing Certificates.**

(a) In lieu of all other charges and fees, the probate judge or the secretary of state, as the case may be, shall charge and collect in accordance with the provisions of this Act for:

(1) Filing articles of incorporation and issuing a certificate of incorporation, \$20.00 for the State of Alabama and \$25.00 for the probate judge.

(2) Filing articles of amendment and issuing a certificate of amendment, \$10.00 for the probate judge and when the amendment changes the name of the corporation, also \$10.00 for the State of Alabama.

(3) Filing restated articles of incorporation, \$25.00 for the probate judge.

(4) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, \$75.00 for the State of Alabama and \$25.00 for the probate judge.

(5) Filing a statement of change of address of registered office or change of registered agent, or both, \$5.00 for the State of Alabama and when the change of address of registered office or change of registered agent, or both, is for a domestic corporation, also \$5.00 for the probate judge.

(6) Filing articles of dissolution, \$5.00 for the State of Alabama and \$5.00 for the probate judge.

(7) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in Alabama and issuing a certificate of authority, \$75.00 for the State of Alabama.

(8) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in Alabama and issuing an amended certificate of authority, \$25.00 for the State of Alabama.

(9) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to conduct affairs in Alabama, \$25.00 for the State of Alabama.

(10) Filing a copy of articles of merger of a foreign corporation

holding a certificate of authority to conduct affairs in Alabama, \$100.00 for the State of Alabama.

(11) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, \$5.00 for the State of Alabama.

(12) Filing any other statement or document, of a domestic or foreign corporation, \$5.00 for the State of Alabama when such other statement or document or a copy thereof, is filed with or transmitted to the secretary of state, and \$5.00 for the probate judge when such other statement of document, or a copy thereof, is filed with or transmitted to the probate judge.

(b) When appropriate two checks shall accompany the document, one payable to the probate judge for all charges for the probate judge, and one payable to the State of Alabama covering all charges for the secretary of state. The check for the secretary of state will be forwarded by the probate judge to the secretary of state.

(c) The fees herein imposed for the State of Alabama shall be collected by the secretary of state and paid into the treasury of the state. The fees herein imposed for the office of the probate judge shall be charged and paid into the appropriate county treasury or to the probate judge as may be authorized or required by law.

#### **Section 84. Miscellaneous Charges.**

The probate judge or secretary of state shall charge and collect:

(1) For furnishing a certified copy of any document, instrument or paper relating to a corporation, \$1.50 per page and \$1.50 for the certificate and affixing the seal thereto.

(2) At the time of any service of process on the secretary of state as resident agent of a corporation, an amount as prescribed pursuant to law or rule of court.

#### **Section 85. Penalties Imposed Upon Directors and Officers.**

Each director and officer of a corporation, domestic or foreign, who signs any articles, statement, application or other document filed with either the probate judge or secretary of state which is known to such officer or director to be false in any material respect, shall be deemed to be guilty of a misdemeanor, and upon conviction thereof may be fined in an amount not exceeding \$500.00.

#### **Section 86. Powers of Probate Judge and Secretary of State.**

The probate judge and the secretary of state shall have the power and authority reasonably necessary to enable them to admin-

ister this Act efficiently and to perform the duties therein imposed upon them.

**Section 87. Appeal From Probate Judge or Secretary of State.**

(a) If the probate judge or the secretary of state, when applicable, shall fail to approve any articles of incorporation, amendment, merger, consolidation or dissolution, or any other document required by this Act to be approved by the probate judge or the secretary of state, before the same shall be filed in his office, he shall, within 10 days after the delivery thereof to him, give written notice of his disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. From such disapproval such person or corporation may appeal to the circuit court of the county in which the disapproving officer has his office by filing with the clerk of such court a complaint setting forth a copy of the articles or other documents sought to be filed and a copy of the written disapproval thereof by the probate judge or secretary of state; whereupon the matter shall be tried *de novo* by the court, and the court shall either sustain the action of the probate judge or secretary of state, as the case may be, or direct him to take such action as the court may deem proper.

(b) If the secretary of state shall revoke the certificate of authority of any foreign corporation to transact business in Alabama, pursuant to the provisions of this Act, such foreign corporation may likewise appeal to the circuit court of Montgomery county by filing with the clerk of such court a petition setting forth a copy of its certificate of authority to transact business in Alabama and a copy of the notice of revocation given by the secretary of state; whereupon the matter shall be tried *de novo* by the court, and the court shall either sustain the action of the secretary of state or direct him to take such action as the court may deem proper.

(c) Appeals from all final orders and judgments entered by the circuit court under this section in review of any ruling or decision of the probate judge or secretary of state may be taken as in other civil actions.

**Section 88. Certificates and Certified Copies to be Received in Evidence.**

All certificates issued by the probate judge or secretary of state in accordance with the provisions of this Act, and all copies of documents filed in their offices in accordance with the provisions of this Act when certified by the probate judge or secretary of state shall be taken and received in all courts, public offices and official bodies as *prima facie* evidence of the facts therein stated, except as provided

in Section 34. A certificate by the probate judge or secretary of state as to the existence or non-existence of the facts relating to corporations shall be taken and received in all courts, public offices and official bodies as prima facie evidence of the existence or non-existence of the facts therein stated, except as provided in Section 34.

**Section 89. Unauthorized Assumption of Corporate Powers.**

All persons who assume to act as a corporation without authority to do so shall be jointly and severally liable for all debts and liabilities incurred or arising as a result thereof.

**Section 90. Reservation of Power.**

The legislature shall at all times have power to prescribe such regulations, provisions and limitations as it may deem advisable, which regulations, provisions and limitations shall be binding upon any and all corporations subject to the provisions of this Act, and the legislature shall have power to amend, repeal or modify this Act at its pleasure.

**Section 91. Effect of Repeal of Prior Acts.**

The repeal of a prior act by this Act shall not impair, or otherwise affect, the organization or the continued existence of an existing corporation, nor the right of any foreign corporation presently qualified to conduct affairs in Alabama to continue to do so without again qualifying to conduct affairs in Alabama. Nor shall the repeal of a prior act by this Act affect any right accrued or established, or any liability or penalty incurred, or the construction of the certificate of incorporation or charter of any corporation organized before the enactment of this Act, or the determination of the rights and interests of any of its members or creditors, under the provisions of such prior act before the repeal thereof.

**Section 92. Effect of Invalidity of Part of This Act.**

If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this Act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this Act, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this Act so adjudged to be invalid or unconstitutional.

**Section 93. Repeal of Prior Acts.**

(a) Chapter 3 (Nonprofit Corporations) Articles 1 through 8 of Title 10 of the Code of Alabama are hereby repealed in their entirety by this Act.

(b) Chapter 4, Articles 12 (Public Improvement Societies) and

15 (Social and Literary Clubs) of Title 10 of the Code of Alabama are hereby repealed in their entirety by this Act.

(c) Chapter 4, Article 13 (Retail Merchants' Association) of Title 10 of the Code of Alabama is hereby amended by this Act as follows:

(1) Section 10-4-260 shall read:

Whenever 10 or more retail merchants wish to form an association, cooperative society or corporation not for pecuniary profit in the sense of paying interest or dividends on stock, but for mutual benefit through the application of cooperation or other economic principles, they may become a body corporate in the manner provided in this Act.

(2) Sections 10-4-261 through 263 are hereby repealed in their entirety.

(d) Chapter 4, Article 14 (Wholesale Merchants' Association) of Title 10 of the Code of Alabama is hereby amended by this Act as follows:

(1) Section 10-4-280 shall read:

Whenever 10 or more wholesale merchants wish to form an association, cooperative society or corporation not for pecuniary profit in the sense of paying interest or dividends on stock, but for mutual benefit through the application of cooperation or other economic principles, they may become a body corporate in the manner provided in this Act.

(2) Sections 10-4-281 through 284 are hereby repealed in their entirety.

**Section 94.** This Act shall become effective the first day of January, 1985.

Approved May 7, 1984

Time: 4:35 P.M.

Act No. 84-291

H. 902—Reps. Turner, Kennedy, Zoghby,  
Box, Gaston, Harper, Marietta,  
Clark (W), Buskey (James),  
Kvalheim

AN ACT

To propose an amendment to the Constitution of Alabama of 1901 providing that certain securities issued by or on behalf of the Alabama State Docks Department

shall not constitute debts of the State within the meaning of any state constitutional provision.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Proposed Constitutional Amendment. The following amendment to the Constitution of Alabama of 1901 is hereby proposed:

### CONSTITUTIONAL AMENDMENT

"Bonds or other securities issued by or on behalf of the Alabama State Docks Department shall not constitute a debt of the State within the meaning of Section 213 of this Constitution, as heretofore or hereafter amended, or any similar provision of this Constitution supplemental to, or superseding, said Section 213, as so amended, if by their terms such bonds or securities do not constitute a charge on the general credit or tax revenues of the State, but are payable solely from any or all of the revenues from any or all of the State docks facilities wherever situated (whether or not such facilities were in existence or owned by or on behalf of the State at the time such bonds or securities were issued) or from sources other than State taxes, licenses or appropriations; provided, however, that the proceeds of any fee, tariff or charge (regardless of how denominated or calculated) collected by the Alabama State Docks Department in connection with the operation of the State docks facilities wherever situated shall be considered revenues from such facilities within the meaning of this amendment."

**Section 2.** Election Ordered; Date of Election. An election upon the proposed amendment is ordered to be held on Tuesday, September 4, 1984. The election shall be held in accordance with the provisions of Section 284, as amended, and Section 285 of the Constitution of Alabama of 1901, and Title 17, Chapter 17, Code of Alabama 1975.

**Section 3.** Notice of Election. Notice of the election on the proposed amendment shall be given by proclamation of the Governor, published in a newspaper in each county in the state once a week for four successive weeks next preceding the day appointed herein for the election, and in any county in which there may be no newspaper published, the notice shall be posted at each courthouse therein.

**Section 4.** Special Provisions Respecting Election Date. It is hereby expressly provided that no act or resolution hereafter enacted or adopted by the Legislature fixing or purporting to fix the date of election on any one or more proposed constitutional amendments (a) shall apply to the amendment hereinabove proposed, or (b) shall be construed to amend, alter or repeal in any way the pro-



visions of Section 2 of this act, unless (i) specific reference to this act and the amendment hereinabove proposed is made in such subsequent act or resolution, and (ii) it appears unequivocally from the explicit provisions of such subsequent act or resolution that such act or resolution is intended by the Legislature to fix an election date on the amendment hereinabove proposed other than the election date fixed in Section 2 of this act.

### CONSTITUTIONAL AMENDMENT

Passed the House as amended May 2, 1984

Passed the Senate May 9, 1984

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Act No. 84-292

S. 176—Senator Denton

### AN ACT

To provide facilities for displaying certain exhibits in cooperation with the Tennessee Valley Authority; to create the Tennessee Valley Authority Exhibit Commission of Alabama as an agency of the State of Alabama and to provide for its membership, terms, authority and duties; to authorize the issuance of revenue bonds; to authorize the allocation and expenditure of funds; and to provide exemptions from all taxes.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby created and established a state agency to be known as the Tennessee Valley Authority Exhibit Commission of Alabama, which shall be a public body corporate with all the powers and privileges of a corporation, for the purpose of providing for and participating in the management and control of facilities to house and display such visual exhibits of energy related hardware and examples of technology used therefor as may be made available by the Tennessee Valley Authority. Such facility shall constitute a permanent housing for the Tennessee Valley Authority Exhibit, which shall be open to the general public and shall be located at a place to be designated in the vicinity of the Muscle Shoals area for a nominal cost through the cooperation of the Tennessee Valley Authority or at such other locations as the commission may deem appropriate. The Commission is further empowered to provide such facilities as will be mutually agreed upon between the commission and the Tennessee Valley Authority for the housing and display of energy related hardware and technology, navigational river and tributary development practices, agriculture technology and innovations of the National Fertilizer Development Center, and wildlife and environmental practices and protections, and mankind and his historical achievements and mementos of the Tennessee Valley Authority. All such facilities shall be principally constructed out of oolitic

shadow vein Alabama limestone. The commission is further empowered to establish an information and exhibit center in order to provide information to the public on research and development in the field of energy related hardware and technology, navigational river and tributary development practices, agriculture technology and innovations, wildlife and environmental practices and protections and mankind and his historical achievements as developed by the Tennessee Valley Authority, the energy research and development administration, other federal and state agencies, including universities and colleges, and other public and private sectors engaged in energy related activities.

**Section 2.** The commission created herein shall consist of 16 members, to be appointed by the governor and confirmed by the senate, and shall be bona fide residents and qualified voters of this state. The sixteen (16) members of the commission shall be appointed one (1) each from the following counties of: Calhoun, Cherokee, Colbert, Cullman, DeKalb, Etowah, Franklin, Jackson, Jefferson, Lauderdale, Lawrence, Limestone, Madison, Marshall, Morgan and Winston in such a manner as to provide general representation on the commission, but all members shall be qualified persons of unquestioned loyalty to his country who are knowledgeable and interested in energy, river development, agriculture, wildlife and mankind and in the promotion of interest in such fields. Eight of the original members shall be appointed for terms of four years, and eight members shall be appointed for terms of eight years. Thereafter, all members shall serve for terms of eight years. All members shall serve until their successors are appointed and qualified, but any member may be removed by the Governor for just cause. Vacancies for any reason whatsoever shall be filled in the same manner as original appointments are made. The first Chairman of the commission shall be appointed by the Governor from among the original appointees. Thereafter, each succeeding chairman shall be selected by the other members of the commission. Members of the commission shall serve without compensation. The commission shall hold at least one annual meeting at the site of the exhibit, and one half of the members shall constitute a quorum for the transaction of any business which may properly come before the commission at any such meeting. The commission shall be authorized to provide for an executive committee of not fewer than five of its members to whom it may delegate such powers and authority as the commission may deem to be advisable.

**Section 3.** The commission shall be authorized:

a. To investigate and select an available site for housing the exhibits, including the surrounding grounds, in cooperation with the

Tennessee Valley Authority and the community, taking into consideration all pertinent factors affecting the suitability of such site;

b. To acquire by rent or lease agreement or otherwise the necessary housing facilities and to establish, improve and enlarge the available facility, including providing it with necessary equipment, furnishings, landscaping and related facilities, including parking areas and ramps, roadways, sewers, curbs and gutters;

c. To enter into such contracts and cooperative agreements with the local, state and federal governments, with agencies of such governments, including the Tennessee Valley Authority, with private individuals, corporations, associations and other organizations as the commission may deem necessary or convenient to carry out the purpose of this act, such contracts and agreements to include leases to private industry;

d. To borrow money from private sources or such other source as may be acceptable to the commission under such terms and conditions as may be provided by law and, in order to provide security for the repayment of any such private loans, to pledge such future revenues from admissions and any other sources as may from time to time be necessary or desirable.

e. To issue and sell at any time, and from time to time, its revenue bonds for the purpose of providing funds to acquire, enlarge, improve, equip and maintain a facility and for the payment of obligations incurred for such purposes. The principal and interest on any such revenue bonds shall be payable solely out of the revenues derived from the project;

f. To make such contracts in the issuance of its bonds as may seem necessary or desirable to assure their marketability and to provide for their retirement by a pledge of all or any revenue which may come to the commission from the investment of the proceeds of the sale of such bonds or from any other source whatsoever;

g. To accept public or private gifts, grants and donations;

h. To acquire property by purchase, lease, gift or license, such power not to include the purchase of a site for the facility;

i. To allocate and expend funds from all donations, income and revenue from any source whatsoever coming into its treasury for the fulfillment and accomplishment of its duties and responsibilities in such manner as may be necessary and appropriate for the perfection of the purposes of this act;

j. To sell, convey, transfer, lease or donate any property, franchise, grant, easement, license or lease or interest therein which it may own and to transfer, assign, sell, convey or donate any right,

title or interest which it may have in any lease, contract, agreement, license or property;

k. To employ an executive director and such additional personnel as may be necessary to accomplish the purposes of this act. The executive director and such additional personnel as may be employed by the commission will serve at the pleasure of the commission. The commission shall fix the compensation of the executive director, and such additional personnel and such compensation shall be paid from any funds of the commission. The commission shall designate the duties and authority of the executive director and such additional personnel. The executive director and such additional personnel shall not be subject to the provisions of the state Merit System Act; provided, however, that they shall be eligible for participation in the state health insurance plan and benefits as provided, and they shall be eligible for participation in the state employees' retirement system under the provisions governing counties, cities, towns and other quasi-public organizations of the state;

l. To make such rules and regulations as the commission may deem necessary and desirable to provide for the operation, management and control of the facility in cooperation with the Tennessee Valley Authority; and

m. To perform such other acts necessary or incidental to the accomplishment of the purposes of this act, whether or not specifically authorized in this section, and not otherwise prohibited by law.

**Section 4.** All revenue bonds issued by the commission shall be solely and exclusively the obligations of the commission and shall not create an obligation or debt of the state or of any county or of any municipality within the state.

**Section 5.** In view of the unique character and complexity of the duties and responsibilities imposed on the commission by this act, it is hereby specifically provided that the commission shall have, in addition to the power and authority enumerated in Section 3 of this act, the right, power and authority to:

a. Develop and institute a program of promotion and advertising of the exhibits and facilities provided for by this act, said program of promotion and advertising to be conducted by the commission both within and without the state in such manner and to such extent as may be deemed economically advisable and appropriate by the commission;

b. Purchase and acquire items of tangible personal property on a competitive bid basis in the manner prescribed by law for the purchase of such items by state trade schools, state junior colleges and state colleges and universities under the supervision and control

of the state board of education, the city and county boards of education, the district boards of education of independent schools districts, the county commissions and the governing bodies of the municipalities of the state and the governing boards of instrumentalities of counties and municipalities.

c. Operate itself or, in its discretion enter into lease agreement with a person or agency of its choosing to operate, all concessions located in or on the grounds and facilities operated by the commission, any such lease agreement to be so designated as to provide maximum services and convenience to the patrons of the exhibit center and to provide reasonable revenue return to the commission.

**Section 6.** It shall be the duty of the commission to maintain at all times accurate records and books of account covering revenues and expenditures which shall be subject to the audit of the department of examiners of public accounts.

**Section 7.** The commission, its property and income and all bonds issued by the commission, the income from such bonds or from the investment of such income and all conveyances, leases, mortgages and deeds of trust by or to the commission shall be exempt from all taxation in the state of Alabama.

**Section 8.** The provisions of this act shall be construed liberally, it being the purpose to provide in this state appropriate housing facilities for displaying to the general public exhibits of the Tennessee Valley Authority and for providing for the management and control of that portion of the display furnished and supplied by the Tennessee Valley Authority by such means as may be feasible and agreed upon.

**Section 9.** The provisions of this Act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 10.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 11.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 14, 1984

Time: 4:30 P.M.

## AN ACT

Relating to the further regulation of liquefied petroleum gas and the powers, duties and authority of the liquefied petroleum gas board and appointees and employees thereof; to amend Sections 9-17-100, 9-17-102, 9-17-103, 9-17-104, 9-17-105, 9-17-106 and 9-17-109 of the Code of Alabama 1975; and to provide penalties for violations.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 9-17-100, 9-17-102, 9-17-103, 9-17-104, 9-17-105, 9-17-106 and 9-17-109 of the Code of Alabama 1975, are hereby amended to read as follows:

“§ 9-17-100.—Definitions.

“As used in this article, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

“(1) **LIQUEFIED PETROLEUM GAS.** Any material having vapor pressure not exceeding that allowed for commercial propane composed predominantly of the following hydrocarbons either by themselves or as mixtures of the same: propane, propylene, butanes (normal butane or isobutane) and butylenes.

“(2) **BOARD.** The Alabama liquefied petroleum gas board.

“(3) **PERSON.** Every natural person, firm, copartnership, association or corporation.

“(4) **LIQUEFIED PETROLEUM GAS SYSTEM.** Any assembly consisting of one or more containers with a means for conveying LP-gas from the container(s) to dispensing of consuming devices (either continuously or intermittently) and which incorporates components intended to achieve control of quality, flow, pressure, or state (either liquid or vapor).

“(5) **RED TAG.** A card or device red in color, containing printed notice of the condemnation of a liquefied petroleum gas system as a result of a violation of the liquefied petroleum gas safety code provisions and regulations, which when attached to such system is official notice of condemnation and of the prohibition of further use, so long as said red tag remains affixed by law.

“§ 9-17-102.

“Board members shall receive travel expenses and per diem based at the rate that is currently prescribed by the state for its state employees, while attending official meetings of the board. Except that per diem paid to board members shall be no less than one full days per diem, and payment shall be based on attendance at a board meeting rather than the time of arrival and departure. No

member of the board shall receive per diem and expense allowance for more than 20 days in any one calendar year.

“§ 9-17-103.

“The board shall have the power to make and enforce rules and regulations governing the design, construction, location, installation and operation of containers, tanks, systems and equipment for storing, utilizing, handling and transporting liquefied petroleum gases and rules to secure the substantial accuracy of all meters, safety devices and regulators generally used in connection with such gases. No person shall be permitted to certify the accuracy of their own company owned meters. Said rules and regulations shall be such as are reasonably necessary for the protection of the health and safety of the public and persons using such gases, and shall be adopted only after a public hearing thereon. All rules and regulations shall be printed in pamphlet form and shall be mailed to all liquefied petroleum gas dealers registered with the board and to any person upon request; provided, that the board may adopt as its own rules the published regulations of the National Fire Protection Association or any other nationally recognized agency covering the same subject by reference thereto. All rules and regulations so adopted by the board shall become effective 35 days after adoption thereof.

“In order that the administrator of the board and inspectors may determine whether or not a danger to the public or to a liquefied petroleum gas user exists, and there is reasonable cause to believe that such danger does exist, the said administrator and inspectors may enter any building or upon any premises connected to a liquefied petroleum gas system for the sole purpose of conducting an inspection or an investigation of such system. If a violation is found in conducting such inspection which is determined to be a hazard and a danger to the public or to a liquefied petroleum gas user, said administrator and inspectors shall have the power, duty and authority to shut off the liquefied petroleum gas system and to condemn the system from further use for purposes of safety until the gas system has been certified as back in compliance with adopted liquefied petroleum gas safety code standards and until the red tag is removed or authorized to be removed by a board appointee or employee. When a system is condemned it shall be ‘red-tagged.’

“§ 9-17-104.

“The board shall appoint an administrator and have power over his dismissal and shall fix his compensation. Before entering upon the duties of his office, such officer shall make and file with the secretary of state an official bond in an amount to be fixed by the board, premiums on which shall be paid out of funds of the board. Said bond shall be payable to the state of Alabama and shall be

written by an approved insurance company qualified to do business in the state of Alabama. The board shall prescribe the duties of the administrator of the board and shall adopt a seal which shall be in the care and custody of the administrator. The board shall have authority, subject to the provisions of the merit system, to employ such assistants and inspectors as may be necessary to carry out the provisions of this article and shall prescribe their duties. Also, the board may, without regard to the Merit System Act, engage and employ such consultants and technical advisors as it may deem necessary in carrying out its responsibilities.

“Limited to persons in violation of provisions of the Alabama Liquefied Petroleum Gas Fuel Tax Law Sections 40-17-160 through 40-17-166 of the Code of Alabama 1975, the administrator and duly appointed inspectors employed by the liquefied petroleum gas board shall be and are hereby constituted peace officers of the state of Alabama and are clothed with the powers of peace officers and deputy sheriffs and may exercise such powers anywhere within the state. They shall be authorized and empowered to arrest violators and to carry such violators before the district court in the county in which the violation is committed. In addition, the board administrator and the board inspectors shall have the powers and authority to issue a uniform traffic citation to any person violating the provisions of said Sections 40-17-160 through 40-17-166 of the Code of Alabama 1975.

“All fees collected under the provisions of this article or otherwise inuring to the credit of the board shall be deposited in the state treasury in a fund to be designated the ‘liquefied petroleum gas board fund,’ which fund is hereby established. All expenditures from said fund shall be subject to the terms, conditions, provisions and limitations of Title 41, chapter 4, article 4. All balances in said fund in excess of \$50,000.00 at the end of each fiscal year shall be transferred to the state general fund.

“§ 9-17-105.

“(a) The board shall have the power to issue permits to any person to engage in or continue in the business of selling, distributing, storing or transporting liquefied petroleum gases and to engage in or continue in the business of selling, installing, servicing, repairing, or adjusting liquefied petroleum gas containers, tanks or systems in the state of Alabama and to prescribe the requirements of such person to obtain such permits.

“(b) The permits shall be of six types:

“(1) PERMIT A. Shall give the holder a right to engage in or continue in the business of selling, distributing, storing or transporting liquefied petroleum gases and to engage in or continue in the



business of selling, installing, servicing, repairing or adjusting liquefied petroleum gas containers, tanks or systems at retail. Before any person shall engage in or continue in the business of selling, distributing, storing or transporting liquefied petroleum gases, except where the liquefied petroleum gas so handled is in quantities of less than one gallon U.S. water capacity and is an integral part of a device for its utilization, or before any person shall engage in the business of selling, installing, servicing, repairing or adjusting liquefied petroleum gas containers, tanks or systems at retail in the state of Alabama, such person shall first obtain from the board a Permit A and shall execute and file with the board a bond and the insurance herein required.

"The board shall require every applicant for Permit A to present evidence to the board that he has a bona fide contract or a letter of intent to sell, from a reputable supplier of liquefied petroleum gas for an amount of such gases that is sufficient to supply the customers he has estimated that he will serve.

"(2) PERMIT B. Shall give the holder a right to engage in or continue in the business of transporting, storing, distributing or selling liquefied petroleum gases in unit quantities of 5,000 gallons or more to end users only. Before any person shall engage in or continue in the business of transporting, storing, distributing or selling liquefied petroleum gases in unit quantities of 5,000 gallons or more to end users only, in the state of Alabama and not being a holder of a Permit A, such person shall first obtain from the board a Permit B and shall execute and file with the board a bond and the insurance herein required. In an emergency situation when delay might cause undue hardship the board shall have the power through its administrator to issue a temporary Permit B to an applicant provided all other requirements are met. Such permit shall remain in force until the time of the next regular meeting of the board when the application will be reviewed and acted upon.

"(3) PERMIT C. Shall give the holder a right to engage in or continue in the business of selling, installing, servicing, repairing or adjusting liquefied petroleum gas piping and installing, servicing, repairing or adjusting liquefied petroleum gas appliances on the down stream side of the tank regulator only. Before any person shall engage in or continue in the business of selling, installing, servicing, repairing or adjusting liquefied petroleum gas piping, and installing, servicing, repairing or adjusting liquefied petroleum gas appliances on the down stream side of the tank regulator only, in the state of Alabama and not being a holder of a Permit A, such person shall first obtain from the board a Permit C and execute and file with the board a bond and the insurance herein required.

“(4) PERMIT D. Shall give the holder a right to engage in or continue in the business of installing and/or repairing of bulk storage systems of 5,000 gallons water capacity or more in single containers or in an aggregate of 5,000 gallons water capacity of a multi-container installation only. Before any person shall engage in or continue in the business of installing bulk storage systems of 5,000 gallons water capacity or more in single containers or in a multi-container installation of an aggregate of 5,000 gallons water capacity, in the state of Alabama and not being a holder of a Permit A, such person shall first obtain from the board a Permit D and shall execute and file with the board a bond and the insurance herein required.

“The board shall require holders of a Permit D to submit plans for any proposed installation of any liquefied petroleum gas storage facility he is planning to install that is authorized under the terms of his permit. He must obtain approval for the location and for the plans from the administrator of the board before construction is begun. All such facilities must be constructed according to rules and regulations of the board and the completed unit must have board approval before being used. A minimum fee of \$200.00 must be paid to the board at the time the plans for each facility are presented for approval. This fee of \$200.00 will cover examination of the plans and one site inspection. An additional fee of \$50.00 for each inspection trip to the site that is required shall be paid to the board before final approval is given for the facility to be used. These fees may be changed by action of the board.

“(5) PERMIT E. Shall give the holder a right to engage in or continue in the business of calibration and/or repair of liquefied petroleum gas liquid meters.

“Before any person shall engage in or continue in the business of calibration and/or repair or liquefied petroleum gas liquid meters, in the state of Alabama and not being a holder of a Permit A, such person shall first obtain from the board a Permit E and shall execute and file with the board a bond and the insurance herein required.

“(6) PERMIT F. Shall give the holder the right to engage in or continue in the business of filling cylinders and/or motor fuel containers of less than 351 pounds water capacity from a stationary filling station. Before any person shall engage in or continue in the business of filling cylinders and/or motor fuel containers and not being a holder or an agent of a Permit A, they must first obtain from the board a Permit F and shall execute and file with the board a bond and insurance herein required. A separate permit, bond and insurance certificate shall be required for each filling station.

“(c) The required bond for Permits A, B, C, D, E and F shall be in the sum of \$5,000.00 payable to the state of Alabama, and conditioned on the full compliance with the provisions of this article. Said bond shall be written by an insurance company qualified to do business in the state of Alabama. In lieu of such surety bond a personal bond in the amount of \$5,000.00 may be used; provided, that the same is secured by bonds or other obligation of the state of Alabama or the United States government of equal value.

“(d) An applicant for any of the six permits shall also file with the board evidence that he has in force such of the hereinafter listed insurance coverage written on standard contract forms by an insurance company or companies qualified to do business in the state of Alabama based upon those of the activities listed above in which he is engaged.

“Insurance	Each Occurrence	Each Person
“Comprehensive Automobile Liability		
Bodily injury liability	100,000	50,000
Property damage liability	100,000	
“Comprehensive General Liability		
covering:		
(Bodily injury liability)		
(Manufacturers and Contractors		
liability)	100,000	
“Owners and Contractors		
protection liability		
(Completed operations and		
products liability)		

“(e) In lieu of filing with the board evidence that such insurance coverage, as outlined above, is in force, such person may file with the board a good and sufficient surety bond executed by an insurance company qualified to do business in this state in an amount of \$100,000.00, which bond shall be payable to the state of Alabama and shall be conditioned to guarantee the payment of all damages which proximately result from any act of negligence on the part of such person or his agents, servants or employees while engaging in any of the activities specified in this section. In lieu of such surety bond, any such person may execute and file a good and sufficient personal bond in the amount and conditioned as above specified, which said personal bond shall be secured by bonds or other obligations of the state of Alabama or the United States government of equal value.

“(f) Any state, county, or any incorporated municipality or agency, or instrumentality thereof and any industrial user who makes application and possesses a Class C Permit shall not be re-

quired to file with the board a surety bond, provided that all of the servicing, repairing, adjusting and installing of LP-gas equipment, appliances and systems is only being accomplished on their own LP-gas equipment, appliances and systems.

“§ 9-17-106.

“(a) Fees for Permit A and Permit B. Every applicant for Permit A or a Permit B, at the time of issuance, shall pay to the board a fee of \$300.00 and annually thereafter pay to the board a fee of \$200.00. Said permits and fees shall be due on October 1 and delinquent after October 31 of each year.

“Every person required to renew such permits and pay said fees who fails to do so by said delinquent date shall incur a penalty of \$10.00 for each day he is delinquent in complying with the provisions of this section, and such penalty shall be paid to the board before the issuance of the permit. Delinquency shall be determined by the United States Postal Service postmark when the date on such postmark falls on a later date than the said delinquent date.

“(b) Fees for Permit C. Every applicant for a Permit C shall at the time of issuance of the permit by the board and annually thereafter pay to the board a permit fee of \$50.00. Said permit and fees shall be due January 1 and delinquent after January 31 of each year.

“Every person required to renew such permit and who fails to do so by the delinquent date shall have his permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for delinquency and make payment of the regular fee of \$50.00 and penalty of \$25.00. After six months the person must reapply in the original manner previously set by the board.

“(c) Fees for Permit D. Every applicant for a Permit D shall at the time of issuance of the permit by the board and annually thereafter pay to the board a permit fee of \$250.00. Said permit and fees shall be due January 1 and delinquent after January 31 of each year.

“Every person required to renew such permit and who fails to do be by the delinquent date shall have his permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for delinquency and make payment of the regular fee of \$250.00 and a penalty of \$50.00. After six months the person must reapply in the original manner previously set by the board.

“(d) Fees for Permit E. Every applicant for a Permit E shall at the time of issuance of the permit by the board and annually

thereafter pay a permit fee of \$50.00. Said permit fees shall be due on January 1 and delinquent after January 31 of each year.

"Any person required to renew such permit and who fails to do so by the delinquent date shall have his permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for delinquency and make a payment of the regular fee and a penalty of \$25.00. After six months the person must reapply in the original manner previously set by the board.

"(e) Fees for Permit F. Every applicant for a Permit F shall at the time of issuance of the permit by the board and annually thereafter pay a permit fee of \$100.00. Said permit fees shall be due on January 1 and delinquent after January 31 of each year. Filling stations that are owned by Class A Permit holders or operated by agents of Class A Permit holders are exempt from obtaining a Class F Permit.

"Every person required to renew such permit and who fails to do so by the delinquent date shall have his permit automatically cancelled. The permit may be reinstated within six months if the holder can show reasonable cause for delinquency and make payment of the regular fee of \$100.00 and a penalty of \$50.00. After six months the person must reapply in the original manner previously set by the board. The administrator may issue a temporary Class F Permit as soon as all requirements are met. The temporary permit shall only be in effect until the next regular board meeting unless the board extends the effective date by official action. Class F Permit holders shall keep records and must report monthly sales of out-of-state motor fuel and remit required fees by the 20th of the months following such sales. Failure to make timely reports and pay required fees shall require interest and penalties to be assessed as described in Section 9-17-109 of the Code of Alabama 1975.

"(f) In the event that an end user located within the state of Alabama purchases or obtains liquefied petroleum gas on which the permit fees required by this article have not been paid then said end user shall be required to report to the board the cost of such liquefied petroleum gas purchased during each period from October 1 to September 30 each year and shall pay to the board such fees that are due.

"All end users who purchase liquefied petroleum gas in unit quantities of 5,000 gallons or more are hereby required to furnish the board with such information concerning such purchases as may be requested by the board.

"(g) Any supplier who sells liquefied petroleum gas to any marketer or any end user in the state or who delivers or causes to be

delivered liquefied petroleum gas to any point in the state, is required to report to the board all such sales by the 20th of the month following the month in which the sales are made. Such supplier shall add to each individual sales invoice an amount set by the board not to exceed one-fifth of one percent of the invoice cost of the total billing which shall include the cost of the product and freight to the point of delivery in the state to the marketer and shall remit to the board such money collected with the required monthly report.

“The board shall have the authority from year to year to lower or raise the percentage of invoice cost to be collected from each supplier.

“At no time may the board raise the percentage of invoice cost to be collected from each supplier above the rate of one-fifth of one percent.

“(h) Any permit holder who sells liquefied petroleum gas in the state of Alabama not otherwise covered under the provisions of this article must report to the board the cost of such sales by the 20th of the month following the month such sales were made. Such permit holder shall submit to the board a percentage of the invoice cost as specified by the board not to exceed one-fifth of one percent of the cost of sale. The invoice cost shall include the cost of the product and freight to the point of delivery in the state to the marketer.

“(i) Where a permit holder buys liquefied petroleum gas in the state of Alabama and pays the required permit fees on such liquefied petroleum gas and this permit holder sells such gas to end users outside the state of Alabama, the board is authorized to issue a credit or refund of the amount of such fee upon proper application to the board. Such application shall be submitted to the board no later than 30 days following the end of each fiscal quarter. Failure to make a timely application shall result in forfeiture of the fee.

“(j) Class A, B, C and D permit holders who are licensed by this board to install gas piping shall be exempt from the requirement of Section 40-12-84 of the Code of Alabama 1975 if they only install gas piping.

“§ 9-17-109.

“(a) Any person violating any provision of this article or any rule, order or regulation promulgated pursuant hereto shall, on conviction thereof, be fined not more than \$1,000.00 and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months, and every violation of any provision of this article or any rule, order or regulation promulgated pursuant hereto shall constitute a separate offense.

“(b) It shall be the duty of every person subject to the fees imposed by section 9-17-106 to keep and preserve suitable records of all liquefied petroleum gas transactions subject to fees and such other books or accounts as may be necessary in order to determine the amount of fees for which such persons are liable under the provisions of this article. Such records shall be retained for a period of not less than three years, such records shall include the name, address of buyer, date of sale, amount of gallons purchased, cost per gallon, total amount of sale and amount of fees collected under the provisions of section 9-17-106.

“(1) If any person fails to report and remit fees required in section 9-17-106, the board shall issue written order by registered or certified mail to such persons to report and remit forthwith, and, if such person fails or refuses to make such report and remittance within 30 days from date of such notice, then the board shall make the report for such persons delinquent upon such information as it may reasonably obtain and shall assess the fees due thereon and shall add a penalty for failure to make such report and payment of 25 percent of the fees due, as assessed by the board and interest at the rate of one-half of one percent per month, or fraction thereof, from the date such fees were due; provided, that the board, if a good and sufficient reason is shown or such delinquency, may waive or remit the 25 percent penalty or a portion thereof.

“(2) Any person who fails to pay the fees levied in section 9-17-106 within the time required by this article shall pay, in addition to the fees, a penalty of 10 percent of the amount of the fees due, together with interest thereon at the rate of one-half of one percent per month or fraction thereof from the date at which the fees levied in this section became due and payable, such penalty and interest to be assessed and collected as part of the fee; provided the board for good cause shown may waive or remit said penalty or any portion thereof.

“(3) As soon as practicable after the report is filed, the board shall examine and ascertain the proper amount of the fee as shown by the report. The excess shall be refunded to the person who filed the report or credited on any deficiency previously due under the provisions of this article. If the amount paid is less than the amount due, as shown by the report, the board shall immediately notify the persons of such deficiency and shall add thereto a penalty of 10 percent of the amount due, and if such deficiency be not paid within 30 days from date of such notice, the same shall bear interest at the rate of one-half of one percent per month or fraction thereof, from the date the same was due and shall be collected as part of the fee; provided, the board for good cause shown may waive or remit said penalty or any portion thereof.

"(4) Whenever the board in examining and auditing the records of any such persons who collect said fee or from other information shall ascertain that the amount or amounts previously paid by such person for any period or periods is incorrect, the board shall compute the correct amount of fees due, and, if it appears that the amount paid by such persons is in excess of the correct amount due, such excess shall be refunded to such persons or credited on any deficiency previously due by such persons as required by this article. If it appears that the amount paid by such persons is less than the amount due, the board shall compute the amount of such deficiency and shall notify such persons and shall demand payment thereof, and, if not paid within 15 days from date of such demand, the board shall add a penalty of one-half of one percent per month from the date such fees, or any part thereof, becomes due, provided, that if the board is of the opinion that there was a willful or fraudulent intent by such persons to evade the fees due, it may assess a penalty of 25 percent of the fees, provided that upon appeal such action shall be reviewable.

"(c) Whenever the board shall make an assessment against such persons as provided in section 9-17-106 the board shall notify such persons by registered or certified mail of the amount of such assessment and shall notify such persons to appear at the board office on a day named not less than 20 days from date of such notice and show cause why such assessment should not be final. Such appearance may be by agent or attorney. If no showing is made on or before the date fixed in such notice or if such showing is not sufficient in the judgment of the board, such assessment shall be made final in the amount originally fixed or in such amount as is determined by the board to be correct. If upon such hearing, the board finds the amount due to be different from that originally assessed, it shall make the assessment final in the correct amount and in all cases shall notify such persons of the assessment as finally fixed; provided, that a notice by United States mail, addressed to such persons' last known place of business, shall be sufficient.

"Whenever any such person who has duly appeared and protested an assessment by the board is dissatisfied, he may make appeal of such assessment to the board at a time and place designated by the board, provided no appeal shall lie in cases where such person has failed to appear and protest.

"Any assessment made by the board shall prima facie be correct on appeal.

"(d) Any person who unauthorizedly either turns any liquefied petroleum gas system on after it has been inspected, shut down, condemned for safety purposes and red-tagged under authority of



the liquefied petroleum gas board or removes any such placed red tag without authorization from the liquefied petroleum gas board administrator, shall upon conviction be guilty of a Class B misdemeanor as defined in Title 13A of the Code of Alabama 1975, and shall be punished as provided by law."

**Section 2.** All laws or parts of law which conflict with this act are hereby repealed.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 9, 1984

Time: 4:50 P.M.

Act No. 84-294

H. 229—Rep. Coburn

### AN ACT

To make appropriations for the ordinary expenses of the executive, legislative and judicial departments of the State, for other functions of government, for interest on the public debt, and for capital outlay for the fiscal year ending September 30, 1985.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The monies in Section 2 are appropriated from the named funds for the 1984-85 fiscal year to the state agency indicated, as the amounts to be used to pay the expenditures of the named agencies, and are in lieu of all monies appropriated for these purposes in other sections of the Alabama Statutes.

For the purpose of this Act, the amounts herein for expenditures are listed by programmatic area and the total for all programs are shown by the source of funds. It is intended that only the named funds be appropriated to the agency concerned; and that the following definitions shall be applicable:

(a) "Appropriation Total" shall mean the aggregate total of all fund sources.

(b) "Program" shall mean specific governmental services required to achieve a specific objective. A program shall be directed to meeting the need of an identified clientele, or group of recipients or beneficiaries.

(c) "Capital Outlay" shall mean expenditures which result in the acquisition and/or addition to items, such as land or buildings, which have an appreciable and calculable period of usefulness in excess of one year, and shall be expended only for such purposes.

(d) "Debt Service" shall mean an expenditure for the payment of interest and principal on all bonded debt obligations of the State, and shall be expended only for such purposes.

**Section 2.** There is hereby appropriated for the ordinary expenses of the executive, legislative, and judicial departments of the State, for other functions of government, for the principal and interest on the public debt, and for capital outlay for the fiscal year ending September 30, 1985, to be paid out of any monies hereinafter specified, from such other funds and accounts as may be designated, or so much thereof as may be necessary, and the total amount to be expended for the items for which the appropriation is herein made shall not exceed the amount provided therefor, except as provided in the Budget Management Act of 1976, Sections 41-19-1 through 12, Code of Alabama 1975. Provided, however, that regardless of the ending date of any pay period which has been or may be established by the Legislature for the payment of salaries of state employees, the entire payment due shall be made from the fiscal year's appropriation in which the pay date falls.

**2A. LEGISLATIVE:**

**1. EXAMINERS OF PUBLIC ACCOUNTS, DEPARTMENT OF:**

(a) Legislative Support-Audit Services Program .....	4,300,000
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The appropriation to the Examiners of Public Accounts shall include a transfer to the State Personnel Department of \$8,853.

**SOURCE OF FUNDS:**

(1) State General Fund .....	4,200,000	
(2) Federal Funds .....		100,000

Total Department of Examiners of Public Accounts .....	4,200,000	100,000	4,300,000
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**2. LEGISLATIVE COUNCIL:**

(a) Other Legislative Operations and Support Program .....	180,000
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(For Operations of the Council including out-of-state travel by Council members and members

of the Legislature authorized to attend Legislative conferences by joint resolution of the Legislature.)

**SOURCE OF FUNDS:**

(1) State General Fund .....	180,000	
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Total Legislative Council .....	180,000	180,000
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**3. LEGISLATIVE FISCAL OFFICE:**

(a) Other Legislative Operations and Support Program .....		500,000
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**SOURCE OF FUNDS:**

(1) State General Fund .....	500,000	
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Total Legislative Fiscal Office ..	500,000	500,000
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**4. LEGISLATIVE REFERENCE SERVICE:**

(a) Other Legislative Operations and Support Program .....		810,000
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The appropriation to the Legislative Reference Service shall include a transfer to the State Personnel Department of \$546.

**SOURCE OF FUNDS:**

(1) State General Fund .....	810,000	
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Total Legislative Reference Service .....	810,000	810,000
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**5. LEGISLATURE:**

(a) Senate Operations Program ...	1,716,800
(b) House Operations and Support Program .....	2,575,200

(1) Copying Machine for Ways and Means Committee, House Rules Committee and Speaker's of the House Office .....	50,000
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**SOURCE OF FUNDS:**

(1) State General Fund .....	4,342,000	
<hr/>		
Total Legislature .....	4,342,000	4,342,000
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6. LEGISLATURES, NATIONAL  
CONFERENCE OF STATE:

(a) Other Legislative Operations and Support Program .....		56,565
SOURCE OF FUNDS:		
(1) State General Fund .....	56,565	
Total National Conference of State Legislatures .....	56,565	56,565

B. JUDICIAL:

1. COURT OF CIVIL APPEALS:

(a) Court Operations Program .....		890,000
SOURCE OF FUNDS:		
(1) State General Fund .....	890,000	
Total Court of Civil Appeals ..	890,000	890,000

2. COURT OF CRIMINAL AP-  
PEALS:

(a) Court Operations Program .....		1,270,000
SOURCE OF FUNDS:		
(1) State General Fund .....	1,270,000	
Total Court of Criminal Ap- peals .....	1,270,000	1,270,000

3. JUDICIAL INQUIRY COMMIS-  
SION:

(a) Administrative Services Pro- gram .....		75,000
SOURCE OF FUNDS:		
(1) State General Fund .....	75,000	
Total Judicial Inquiry Commission .....	75,000	75,000

4. JUDICIAL RETIREMENT SYS-  
TEM:

(a) Retirement Systems Program .		1,323,600
SOURCE OF FUNDS:		
(1) State General Fund .....	1,323,600	
Total Judicial Retirement System .....	1,323,600	1,323,600

## 5. SUPREME COURT:

(a) Court Operations Program . . . . .			3,317,000
SOURCE OF FUNDS:			
(1) State General Fund . . . . .	3,300,000		
(2) Federal, Local and Miscellaneous Funds . . . . .		17,000	
Total Supreme Court . . . . .	3,300,000	17,000	3,317,000

6. UNIFIED JUDICIAL SYSTEM:  
(Administrative Office of Courts)

(a) Court Operations Program . . . . .			44,727,008
(b) Administrative Services Program . . . . .			2,772,992
(c) Judicial Education and Training Program . . . . .			300,000
SOURCE OF FUNDS:			
(1) State General Fund . . . . .	47,800,000		
Total Unified Judicial System . . . . .	47,800,000		47,800,000

## C. EXECUTIVE

## 1. ACADEMY OF HONOR, ALABAMA:

(a) Historical Resources Management Program . . . . .			850
SOURCE OF FUNDS:			
(1) State General Fund . . . . .	850		
As provided in Section 41-11-6, Code of Alabama 1975 . . . . .			
Total Alabama Academy of Honor . . . . .	850		850

2. ACCOUNTANCY, ALABAMA  
STATE BOARD OF PUBLIC:

(a) Professional and Occupational Licensing and Regulation Program . . . . .			253,000
The appropriation to the Alabama State Board of Public Accountancy shall include a transfer to the State Personnel Department of \$73.			

## SOURCE OF FUNDS:

- (1) Alabama State Board of Public Accountancy Fund 253,000  
 As provided in Section 34-1-22, Code of Alabama 1975. In addition to the amounts appropriated hereinabove to the State Board of Public Accountancy, there is hereby appropriated such an amount as may be necessary to pay the refund of any application for license which may have been rejected by the Board or withdrawn by request of applicant.

Total Alabama State Board of Public Accountancy .....	253,000	253,000
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## 3. ADJUSTMENT, BOARD OF:

- (a) Special Services Program ..... 215,000  
 SOURCE OF FUNDS:

- (1) State General Fund ..... 15,000  
 For the General Fund Contribution to the total expenditure of \$750,000 pursuant to Section 41-9-73, Code of Alabama 1975, as amended.
- (2) State General Fund, Estimated ..... 200,000  
 For expenditures as provided in Section 31-3-2 and Section 36-30-2, Code of Alabama 1975, as amended.

Total Board of Adjustment ...	215,000	215,000
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## 4. AERONAUTICS, DEPARTMENT OF:

- (a) Airport Development and Aeronautical Support Program 664,433  
 The appropriation to the Department of Aeronautics shall

include a transfer to the State  
Personnel Department of \$219.

**SOURCE OF FUNDS:**

(1) Airport Development Fund .....	664,433	
As provided by Section 4- 2-42, Code of Alabama 1975		
<b>Total Department of Aeronau- tics .....</b>	<b>664,433</b>	<b>664,433</b>

**5. AGING, COMMISSON ON:**

(a) Planning and Advocacy for Elderly Program .....		14,513,115	
The appropriation to the Com- mission on Aging shall include a transfer to the State Person- nel Department of \$1,057.			
<b>SOURCE OF FUNDS:</b>			
(1) State General Fund- Transfer .....	950,000		
(2) Federal, Local and Miscel- laneous Funds .....		13,563,115	
<b>Total Commission on Aging ...</b>	<b>950,000</b>	<b>13,563,115</b>	<b>14,513,115</b>

**6. AGRICULTURAL AND INDUS-  
TRIAL EXHIBIT COMMISSION,  
ALABAMA:**

(a) Agricultural Development Ser- vices Program .....		30,000	
<b>SOURCE OF FUNDS:</b>			
(1) State General Fund .....	30,000		
<b>Total Alabama Agricultural and Industrial Exhibit Com- mission. ....</b>	<b>30,000</b>		<b>30,000</b>

**7. AGRICULTURAL CENTER  
BOARD:**

(a) Agricultural Development Ser- vices Program .....	541,480	
The appropriation to the Agri- cultural Center Board shall in- clude a transfer to the State Personnel Department of \$547.		

## SOURCE OF FUNDS:

(1) State General Fund . . . . .	104,000		
For expense and awarding of prizes for fairs as pro- vided in Section 2-7-2, Code of Alabama 1975.			
(2) State General Fund- Transfer . . . . .	263,000		
(3) Livestock Coliseum Fund . . . . .		174,480	
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Total Agricultural Center Board . . . . .	367,000	174,480	541,480
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8. AGRICULTURE AND INDUS-  
TRIES, DEPARTMENT OF:

(a) Administrative Services Pro- gram . . . . .	1,189,989
(b) Agricultural Inspection Ser- vices Program . . . . .	9,767,723
(c) Laboratory Analysis and Dis- ease Control Program . . . . .	3,716,157
(d) Agricultural Development Ser- vices Program . . . . .	504,931
(e) Marketing Development . . . . .	150,000

The appropriation to the De-  
partment of Agriculture and  
Industries shall include a  
transfer to the State Personnel  
Department of \$30,931.

## SOURCE OF FUNDS:

(1) State General Fund- Transfer . . . . .	6,225,000	
(2) Federal, Local and Miscel- laneous Funds . . . . .		2,174,800
(3) Shipping Point Inspection Fund . . . . .		4,329,000
Pursuant to Sections 2-9- 20 through 21, Code of Al- abama 1975. All fees and charges collected by the Commissioner of Agricul- ture and Industries and deposited into said fund, and such appropriation to the Department of Agri- culture and Industries shall include all fees and charges collected and de- posited therein for Ship- ping Point Inspection		



grading and classification services for agricultural products including services furnished for weighing and issuing weight certificates to be used for the sale of agricultural commodities.

(4) Agricultural Fund .....	2,600,000		
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Total Department of Agriculture and Industries .....	6,225,000	9,103,800	15,328,000
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9. AIR TRANSPORTATION AND SERVICE, DEPARTMENT OF:

(a) Administrative Support Services Program .....			1,801,00
The appropriation to the Department of Air Transportation and Service shall include a transfer to the State Personnel Department of \$1,384.			
SOURCE OF FUNDS:			
(1) State General Fund-Transfer .....	1,696,000		
(2) Departmental Receipts .....		105,000	
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Total Department of Air Transportation and Service ...	1,696,000	105,000	1,801,000
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10. ALCOHOLIC BEVERAGE CONTROL BOARD, ALABAMA:

(a) Alcoholic Beverage Management Program .....	22,189,448		
(b) Licensing, Regulation and Enforcement Program .....	5,472,224		
(c) Administrative Services Program .....	3,922,295		
The appropriation to the Alabama Alcoholic Beverage Control Board shall include a transfer to the State Personnel Department of \$63,793, and to the Department of Mental Health of \$1,000,000.			
SOURCE OF FUNDS:			
(1) ABC Board Fund .....	31,583,967		
In addition to the above			

appropriations herein made, there is hereby appropriated for each additional retail store put into operation during the fiscal year, an amount equal to the sum required to install and operate the last comparable retail store put into operation by said Board provided, however, that the sum appropriated for the operation of retail stores as provided herein shall be reduced in like manner for each retail store closed or withdrawn from operation during the same period. There is further appropriated to the Alabama Alcoholic Beverage Control Board, after provision has been made for the other expenditures herein authorized such sums as are or may be necessary to purchase the alcoholic beverages which are essential to maintain adequate stocks and inventory for an economic and successful sales operation. In addition to the above appropriation, it is further provided that, in the event any county or municipality of the State shall, during the fiscal period covered by this appropriation by proper referendum, authorize the legal sale of malt and brewed beverages within such county or municipality there is further appropriated, in addition to the amount herein set out, an amount comparable to that expended during the prior fiscal year for beer and license tax supervision

within counties or municipalities of similar size and population. Provided, further that the amount appropriated herein shall be reduced in like manner in the event any county or municipality wherein malt and brewed beverages are now authorized by law to be sold shall, during the fiscal period covered by this appropriation by proper referendum, declare unlawful the sale in such county or municipality of such malt or brewed beverages.

Total Alabama Alcoholic Beverage Control Board .....	31,583,967	31,583,967
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#### 11. ARCHITECTS, BOARD FOR REGISTRATION OF:

- |  |         |  |
|--|---------|--|
| (a) Professional and Occupational Licensing and Regulation Program ..... | 150,000 |  |
|--|---------|--|

The appropriation to the Board for Registration of Architects shall include a transfer to the State Personnel Department of \$109.

##### SOURCE OF FUNDS:

- |   |         |  |
|---|---------|--|
| (1) Fund of the Board for Registration of Architects As provided in Section 34-2-41, Code of Alabama 1975 ..... | 150,000 |  |
|---|---------|--|

Total Board for Registration of Architects .....	150,000	150,000
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#### 12. ARCHIVES AND HISTORY, DEPARTMENT OF:

- |   |           |  |
|---|-----------|--|
| (a) Historical Resources Management Program ..... | 1,039,150 |  |
|---|-----------|--|
- The appropriation to the Department of Archives and His-

tory shall include a transfer to the State Personnel Department of \$3,024.

SOURCE OF FUNDS:

(1) State General Fund .....	1,025,000		
(2) Federal, Local, and Miscellaneous Funds .....		14,150	
		<hr/>	

Total Department of Archives and History .....	1,025,000	14,150	1,039,150
		<hr/>	

13. ATTORNEY GENERAL, OFFICE OF THE:

(a) Legal Advice and Legal Services Program .....	4,786,729
(b) Fair Marketing Practices Program .....	400,730

The appropriation to the Office of the Attorney General shall include a transfer to the State Personnel Department of \$9,655.

SOURCE OF FUNDS:

(1) State General Fund-Transfer .....	4,000,000		
(2) Transfer from Pensions and Security .....		496,114	
(3) Federal, Local and Miscellaneous Funds .....		691,345	
		<hr/>	

Total Office of the Attorney General .....	4,000,000	1,187,459	5,187,459
		<hr/>	

14. AUDITOR, STATE:

(a) Fiscal Management Program ..	756,000
The appropriation to the State Auditor shall include a transfer to the State Personnel Department of \$1,785.	

SOURCE OF FUNDS:

(1) State General Fund .....	756,000
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Total State Auditor .....	756,000	756,000
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15. BANKING DEPARTMENT, STATE:

- (a) Charter, License, and Regulate Financial Institutions Program 2,288,842  
 The appropriation to the State Banking Department shall include a transfer to the State Personnel Department of \$3,388.

## SOURCE OF FUNDS:

- (1) Banking Assessment Fees 1,827,542  
 As provided in Section 5-2A-20, Code of Alabama 1975.
- (2) Bureau of Credit Unions 213,000  
 As provided in Section 5-17-7 and Section 5-2A-103, Code of Alabama 1975, as amended.
- (3) Loan Examination Fund 248,300  
 As provided in Section 5-2A-24, Section 5-16-38.1, and Section 5-18-5, Code of Alabama 1975, as amended.

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Total State Banking Department .....	2,288,842	2,288,842
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#### 16. BAR ASSOCIATION, ALABAMA STATE:

- (a) Professional and Occupational Licensing and Regulation Program ..... 771,261

## SOURCE OF FUNDS:

- (1) State Bar Association Fund. 771,261  
 As provided in Section 34-3-4, Code of Alabama 1975

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Total Alabama State Bar Association .....	771,261	771,261
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#### 17. BEAR CREEK DEVELOPMENT AUTHORITY:

- (a) Water Resource Development Program ..... 237,429

## SOURCE OF FUNDS:

- (1) State General Fund ..... 47,179

(2) Federal, Local and Miscellaneous Funds .....		190,250	
Total Bear Creek Development Authority .....	47,179	190,250	237,429

18. BRIERFIELD IRONWORKS  
PARK:

(a) Outdoor Recreation Sites and Services Program .....			103,607
SOURCE OF FUNDS:			
(1) State General Fund .....	25,000		
(2) Federal, Local and Miscellaneous Funds .....		78,607	
Total Brierfield Ironworks Park .....	25,000	78,607	103,607

19. BUILDING COMMISSION,  
STATE:

(a) Special Services Program .....			518,885
The appropriation to the State Building Commission shall include a transfer to the State Personnel Department of \$1,494.			
SOURCE OF FUNDS:			
(1) State General Fund-Transfer .....	300,000		
(2) Federal, Local and Miscellaneous Funds .....		218,885	
Total State Building Commission .....	300,000	218,885	518,885

20. CAHABA ADVISORY COMMITTEE:

(a) Historical Resources Management Program .....			207,300
SOURCE OF FUNDS:			
(1) State General Fund .....	21,300		
(2) Federal, Local and Miscellaneous Funds .....		186,000	
Total Cahaba Advisory Committee .....	21,300	186,000	207,300

21. CHIROPRACTIC EXAMINERS,  
ALABAMA STATE BOARD OF:

(a) Professional and Occupational Licensing and Regulation Pro- gram .....	43,500	
The appropriation to the Ala- bama State Board of Chiro- practic Examiners shall include a transfer to the State Person- nel Department of \$109.		
SOURCE OF FUNDS:		
(1) Alabama State Board of Chiropractic Examiner's Fund .....	43,500	
As provided in Section 34- 24-143, Code of Alabama 1975 .....		
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Total Alabama State Board of Chiropractic Examiners .....	43,500	43,500
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22. CONSERVATION AND NATU-  
RAL RESOURCES, DEPART-  
MENT OF:

(a) State Land Management Pro- gram .....	784,150	
(b) Outdoor Recreation Sites and Services Program .....	11,928,217	
(Of the above appropriation, \$75,000 shall be expended for Lake Guntersville State Park—for Capital Outlay.)		
(c) Marine Police Program .....	2,141,269	
(d) Wildlife and Game Program ..	11,783,496	
(Of the above appropriation to the Wildlife and Game Pro- gram, \$150,000 shall be ex- pended for capital outlay pur- poses for construction and improvements for boat ramps on public streams as follows: Cullman County, \$100,000; Jackson County, \$50,000.)		
(e) Marine Resources Program ...	1,527,500	
Of the Above appropriation, the amount of \$50,000 will be expended for the oyster reloca- tion program.		

(f) Land and Water Conservation Program .....	1,200,000
(g) Administrative Services Program .....	2,175,135
(h) Land Survey Program .....	264,564
(i) Dothan Landmarks Foundation .....	50,000

The appropriation to the Department of Conservation and Natural Resources shall include Alabama's pro rata share of the Gulf States Marine Fisheries Commission operating expenses. The appropriation to the Department of Conservation and Natural Resources shall include such funds as are necessary for the maintenance, staff and repair of the Governor's official beach mansion. The appropriation to the Department of Conservation and Natural Resources shall include a transfer to the State Personnel Department of \$59,348.

#### SOURCE OF FUNDS:

(1) State General Fund-Transfer .....	1,075,000	
(2) Alabama Recreation Capital Development Fund ...		651,000
(3) Game and Fish Fund ....		11,783,496
(4) State Lands Fund .....		784,150
The funds hereinabove appropriated from the State Lands Fund includes funds for analyzing cataloging and monitoring mineral reserves and the development thereof on State lands including water and offshore areas.		
(5) Marine Resources Fund ..	1,527,500	
In addition to the monies hereinabove appropriated from the Marine Resources Fund, all monies derived from contracts, grants or other agreements concerning or relating to marine biological research		



performed or accomplished at the Marine Resources Division Laboratory at Dauphin Island is hereby appropriated and may be expended by the Commissioner of Conservation on such Marine Resources Division Programs or projects which he deems appropriate.

(6) Marine Police Fund .....	2,141,269
(7) State Parks Fund .....	9,752,217
(8) Administrative Funds .....	2,175,135
The funds hereinabove appropriated shall be payable as provided in Section 9-2-1 et seq., Code of Alabama 1975.	
(9) Cigarette Tax .....	500,000
(10) Land Survey Fund .....	264,564
(11) Federal Land and Water Fund .....	1,200,000

Total Department of Conservation and Natural Resources .	1,075,000	30,779,331	31,854,331
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## 23. CONTRACTORS, STATE LICENSING BOARD FOR GENERAL:

- (a) Professional and Occupational Licensing and Regulation Program ..... 283,375

The appropriation to the State Licensing Board for General Contractors shall include a transfer to the State Personnel Department of \$401.

### SOURCE OF FUNDS:

- (1) State Licensing Board for General Contractors Fund Pursuant to Section 34-8-25, Code of Alabama 1975. 283,375
- In addition to the amounts appropriated hereinabove to the State Licensing Board for General Contractors, there is hereby appropriated such an amount as may be nec-

essary to pay the refund of any application for license which may have been rejected by the Board or application withdrawn by request of applicant.

Total State Licensing Board for General Contractors .....	283,375	283,375
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24. CORRECTIONS, DEPARTMENT  
OF:

- |   |            |
|---|------------|
| (a) Administrative Services and<br>Logistical Support Program ... | 6,253,600  |
| (b) Institutional Services Correc-<br>tions Program .....         | 76,186,370 |
| (c) Correctional Industries Pro-<br>gram .....                    | 7,526,790  |

The appropriation to the De-  
partment of Corrections shall  
include a transfer to the State  
Personnel Department of  
\$134,726.

SOURCE OF FUNDS:

- |   |            |
|---|------------|
| (1) State General Fund-<br>Transfer .....   | 82,600,000 |
| (2) Department of Corrections<br>Fund ..... | 7,366,760  |

The Commissioner of Cor-  
rections is authorized to  
utilize funds herein appro-  
priated as matching con-  
tributions, where required  
and appropriate, to gener-  
ate additional funds which  
would effectively increase  
the appropriation for the  
Department of Correc-  
tions. Any such grant  
funds so generated and in  
direct support of the De-  
partment of Corrections'  
operations are also hereby  
appropriated.

Total Department of Correc- tions .....	82,600,000	7,366,760	89,966,760
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**25. COSMETOLOGY, ALABAMA  
BOARD OF:**

- (a) Professional and Occupational  
Licensing and Regulation Pro-  
gram ..... 447,000  
The appropriation to the Ala-  
bama Board of Cosmetology  
shall include a transfer to the  
State Personnel Department of  
\$656.

**SOURCE OF FUNDS:**

- (1) Alabama Board of Cosme-  
tology Fund ..... 447,000  
As provided in Section 34-  
7-42, Code of Alabama  
1975.

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Total Alabama Board of Cos- metology .....	447,000	447,000
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**26. COUNSELING, ALABAMA  
BOARD OF EXAMINERS IN:**

- (a) Professional and Occupational  
Licensing and Regulation Pro-  
gram ..... 42,600

**SOURCE OF FUNDS:**

- (1) Alabama Board of Exam-  
iners in Counseling Fund ..... 42,600  
As provided in Section 34-  
8A-6, Code of Alabama  
1975.

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Total Alabama Board of Ex- aminers in Counseling .....	42,600	42,600
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**27. CRIMINAL JUSTICE INFORMA-  
TION CENTER, ALABAMA:**

- (a) Criminal Justice Information  
Services Program ..... 2,595,592  
The appropriation to the Ala-  
bama Criminal Justice Infor-  
mation Center shall include a  
transfer to the State Personnel  
Department of \$3,206.

**SOURCE OF FUNDS:**

- (1) State General Fund-  
Transfer ..... 2,033,000

(2) Federal, Local and Miscellaneous Funds .....		562,592	
Total Alabama Criminal Justice Information Center .....	2,033,000	562,592	2,595,592

## 28. DEVELOPMENT OFFICE, ALABAMA:

(a) Promotional Development Program-Alabama Film Commission .....			205,000
(b) Administrative Services Program—Office of Minority Business .....			156,187
(c) Industrial Development Program Alabama Development Office .....			2,371,000
The appropriation to the Alabama Development Office shall include a transfer to the State Personnel Department of \$2,441.			

### SOURCE OF FUNDS:

(1) State General Fund-Transfer-Alabama Development Office .....	2,321,000		
(2) State General Fund-Transfer-Office of Minority Business .....	94,000		
(3) State General Fund-Transfer-Alabama Film Commission .....	205,000		
(4) Federal, Local and Miscellaneous Funds .....		112,187	
Total Alabama Development Office .....	2,620,000	112,187	2,732,187

## 29. DISTRICT ATTORNEYS:

(a) Court Operations Program .....		8,968,000
The proposed spending plan included in the above total is as follows:		
Salaries of District Attorneys .....	2,201,984	
Salary of elected Deputy District Attorney of the Bes-		

semer Division of the 10th Judicial Circuit .....	50,130
For the use of the elected Assistant District Attorney of the Bessemer Divi- sion of the 10th Ju- dicial Circuit .....	97,157
Salaries and ex- penses of Supernu- merary District At- torneys .....	826,421
For use in the Dis- trict Attorney's Of- fice of the 1st Judi- cial Circuit .....	83,891
For use in the Dis- trict Attorney's Of- fice of the 2nd Ju- dicial Circuit .....	71,921
For use in the Dis- trict Attorney's Of- fice of the 3rd Judi- cial Circuit .....	122,728
For use in the Dis- trict Attorney's Of- fice of the 4th Judi- cial Circuit .....	333,386
For use in the Dis- trict Attorney's Of- fice of the 5th Judi- cial Circuit .....	287,043
For use in the Dis- trict Attorney's Of- fice of the 6th Judi- cial Circuit .....	231,130
For use in the Dis- trict Attorney's Of- fice of the 7th Judi- cial Circuit .....	180,836
For use in the Dis- trict Attorney's Of- fice of the 8th Judi- cial Circuit .....	110,184
For use in the Dis- trict Attorney's Of- fice of the 9th Judi- cial Circuit .....	104,167
For use in the Dis- trict Attorney's Of-	

Office of the 10th Judicial Circuit . . . . .	362,579
For use in the District Attorney's Office of the 11th Judicial Circuit . . . . .	91,309
For use in the District Attorney's Office of the 12th Judicial Circuit . . . . .	218,621
For use in the District Attorney's Office of the 13th Judicial Circuit . . . . .	341,152
For use in the District Attorney's Office of the 14th Judicial Circuit . . . . .	95,392
For use in the District Attorney's Office of the 15th Judicial Circuit . . . . .	335,807
For use in the District Attorney's Office of the 16th Judicial Circuit . . . . .	152,911
For use in the District Attorney's Office of the 17th Judicial Circuit . . . . .	58,204
For use in the District Attorney's Office of the 18th Judicial Circuit . . . . .	170,247
For use in the District Attorney's Office of the 19th Judicial Circuit . . . . .	101,134
For use in the District Attorney's Office of the 20th Judicial Circuit . . . . .	147,666
For use in the District Attorney's Office of the 21st Judicial Circuit . . . . .	112,353
For use in the District Attorney's Office of the 22nd Judicial Circuit . . . . .	95,712
For use in the Dis-	

trict Attorney's Office of the 23rd Judicial Circuit . . . . .	246,468
For use in the District Attorney's Office of the 24th Judicial Circuit . . . . .	89,274
For use in the District Attorney's Office of the 25th Judicial Circuit . . . . .	85,068
For use in the District Attorney's Office of the 26th Judicial Circuit . . . . .	150,572
For use in the District Attorney's Office of the 27th Judicial Circuit . . . . .	113,979
For use in the District Attorney's Office of the 28th Judicial Circuit . . . . .	140,801
For use in the District Attorney's Office of the 29th Judicial Circuit . . . . .	144,698
For use in the District Attorney's Office of the 30th Judicial Circuit . . . . .	144,667
For use in the District Attorney's Office of the 31st Judicial Circuit . . . . .	87,811
For use in the District Attorney's Office of the 32nd Judicial Circuit . . . . .	106,346
For use in the District Attorney's Office of the 33rd Judicial Circuit . . . . .	101,396
For use in the District Attorney's Office of the 34th Judicial Circuit . . . . .	79,579
For use in the District Attorney's Office of the 35th Judicial Circuit . . . . .	59,175

For use in the District Attorney's Office of the 36th Judicial Circuit . . . . .	72,245	
For use in the District Attorney's Office of the 37th Judicial Circuit . . . . .	95,996	
For use in the District Attorney's Office of the 38th Judicial Circuit . . . . .	109,474	
For use in the District Attorney's Office of the 39th Judicial Circuit . . . . .	81,386	
Appropriations of Salaries of Personnel Established by Statute are estimated.		
Travel Expense of District Attorneys . . . . .	75,000	
	8,968,000	
SOURCE OF FUNDS:		
(1) State General Fund . . . . .	8,968,000	
Total District Attorneys . . . . .	8,968,000	8,968,000

30. ECONOMIC AND COMMUNITY  
AFFAIRS, ALABAMA DEPARTMENT OF:

(a) Administrative Program . . . . .	3,257,887
(b) Planning Program . . . . .	46,775,531
(c) Special Services Program . . . . .	23,119,446
(d) Skills Enhancement and Employment Opportunities Program . . . . .	65,467,322
(e) Energy Management Program . . . . .	5,212,259
(f) Traffic Control and Accident Prevention Program . . . . .	2,241,679
(g) Law Enforcement Planning and Development Program . . . . .	1,776,338
Of the above appropriation to the Law Enforcement Planning and Development Program, \$40,000 shall be allocated to the Marshall County Attention Home and \$20,000 shall be allocated to Glory House.	



(h) Administrative Support Services Program-Federal Property Assistance .....	949,358
(i) Regional Planning Commission Program .....	300,000
(j) To Support Federally Funded Programs-CSA Division .....	250,000

The appropriation to the Alabama Department of Economic and Community Affairs shall include a transfer to the State Personnel Department of \$14,755.

#### SOURCE OF FUNDS:

(1) State General Fund-Transfer-Planning Programs .....	3,575,531		
(2) State General Fund-Transfer-Special Services Program .....	32,021		
(3) State General Fund-Transfer-Energy Management Program .....	529,732		
(4) State General Fund-Transfer-Traffic Control and Accident Prevention Program .....	168,378		
(5) State General Fund-Transfer-Law Enforcement Planning and Development Program .....	339,338		
(6) State General Fund-Transfer-Skills Enhancement and Employment Opportunities Program .....	150,000		
(7) State General Fund-Transfer-To Support Federally Funded Programs-CSA Division .....	250,000		
(8) Federal, Local and Miscellaneous Funds .....	143,376,367		
(9) Federal Property Assistance Fund .....	928,453		
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Total Alabama Department of Economic and Community Affairs

5,045,000 144,304,820 149,349,820

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#### 31. EMERGENCY MANAGEMENT AGENCY:

(a) Readiness and Recovery Program .....			2,700,198
The appropriation to the Emergency Management Agency shall include a transfer to the State Personnel Department of \$2,004.			
SOURCE OF FUNDS:			
(1) State General Fund-Transfer .....	721,000		
(2) Federal, Local and Miscellaneous Funds .....		1,979,198	
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Total Emergency Management Agency .....	721,000	1,979,198	2,700,198
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32. ENGINEERS AND LAND SURVEYORS, STATE BOARD OF REGISTRATION FOR PROFESSIONAL:

(a) Professional and Occupational Licensing and Regulation Program .....			311,260
The appropriation to the State Board of Registration for Professional Engineers and Land Surveyors shall include a transfer to the State Personnel Department of \$291.			
SOURCE OF FUNDS:			
(1) Professional Engineers' Fund .....		311,260	
As provided in Section 34-11-36, Code of Alabama 1975.			
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Total State Board of Registration for Professional Engineers and Land Surveyors .....		311,260	311,260
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33. ENVIRONMENTAL MANAGEMENT, DEPARTMENT OF:

(a) Environmental Management Program .....	8,595,387
(b) Special Projects Program .....	300,000
The appropriation to the Department of Environmental	

Management shall include a transfer to the State Personnel Department of \$15,119.

**SOURCE OF FUNDS:**

(1) State General Fund- Transfer .....	2,349,318		
(2) Environmental Manage- ment Fund .....		6,546,069	
As provided in Section 22- 22A-11, Code of Alabama 1975 (1983 Cum. Supp.).			
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Total Department of Environ- mental Management .....	2,349,318	6,546,069	8,895,387
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**34. ETHICS COMMISSION, ALA-  
BAMA:**

(a) Regulation of Public Officials and Employees Program .....		251,000	
The appropriation to the Eth- ics Commission shall include a transfer to the State Personnel Department of \$547.			
<b>SOURCE OF FUNDS:</b>			
(1) State General Fund .....	251,000		
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Total Alabama Ethics Com- mission .....	251,000		251,000
<hr/>			

**35. FARMERS' MARKET AUTHOR-  
ITY:**

(a) Agricultural Development Ser- vices Program .....		107,077	
The appropriation to the Farmers' Market Authority shall include a transfer to the State Personnel Department of \$182.			
<b>SOURCE OF FUNDS:</b>			
(1) State General Fund- Transfer For Administra- tion .....	73,200		
(2) Farmers' Market Author- ity Fund-Revenue and Capital Outlay Account ..		33,877	
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Total Farmers' Market Au- thority .....	73,200	33,877	107,077
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## 36. FINANCE, DEPARTMENT OF:

(a) Fiscal Management Program . . . . .	2,798,890	
(b) Administrative Support Services Program . . . . .	3,959,445	
(c) Purchase of Equipment for Purchasing Division . . . . .	50,000	
The appropriation to the Department of Finance shall include a transfer to the State Personnel Department of \$37,853.		
SOURCE OF FUNDS:		
(1) State General Fund . . . . .	6,808,335	
Total Department of Finance . . . . .	6,808,335	6,808,335

37. FINANCE, DEPARTMENT OF,  
STATE INSURANCE FUND:

(a) Administrative Support Services Program . . . . .	12,281,198	
SOURCE OF FUNDS:		
(1) State Insurance Fund . . . . .	12,281,198	
As provided in Sections 41-15-1 through 13, Code of Alabama 1975.		
Total Department of Finance-State Insurance Fund . . . . .	12,281,198	12,281,198

38. FOREIGN TRADE RELATIONS  
COMMISSION:

(a) Special Services Program . . . . .	65,000	
The appropriation to the Foreign Trade Relations Commission shall include a transfer to the State Personnel Department of \$36.		
SOURCE OF FUNDS:		
(1) State General Fund . . . . .	65,000	
Total Foreign Trade Relations Commission . . . . .	65,000	65,000

## 39. FORENSIC SCIENCES, DEPARTMENT OF:

(a) Forensic Science Service Program . . . . .	4,515,000	
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The appropriation to the Department of Forensic Sciences shall include a transfer to the State Personnel Department of \$5,938.

**SOURCE OF FUNDS:**

(1) State General Fund .....	4,200,000		
(2) State General Fund-Capital Outlay .....	100,000		
(3) Federal, Local and Miscellaneous Funds .....		215,000	

Total Department of Forensic Sciences .....	4,300,000	215,000	4,515,000
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**40. FORESTERS, ALABAMA STATE BOARD OF REGISTRATION FOR:**

(a) Professional and Occupational Licensing and Regulation Program .....		17,900	
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**SOURCE OF FUNDS:**

(1) Professional Foresters' Fund .....	17,900		
As provided in Section 34-12-36, Code of Alabama 1975.			

Total Alabama State Board of Registration for Foresters .....		17,900	17,900
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**41. FORESTRY COMMISSION, ALABAMA:**

(a) Regional Operations Program .....	9,204,520		
(b) Forest Resource Planning and Development Program .....	3,289,310		
(c) Executive Administration Program .....	354,335		
(d) Administrative Services Program .....	1,353,835		

The appropriation to the Alabama Forestry Commission shall include a transfer to the State Personnel Department of \$32,643.

**SOURCE OF FUNDS:**

(1) State General Fund-Transfer .....	7,850,000		
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(2) Federal and Local Funds . . . . .	2,250,000
(3) Forestry Commission Fund . . . . .	4,102,000

Of the above appropriations, \$550,000 shall be used for rural and community fire protection, and \$100,000 shall be allocated to Volunteer fire departments.

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Total Alabama Forestry Commission . . . . .	7,850,000	6,352,000	14,202,000
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#### 42. FUNERAL SERVICES, ALABAMA BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program . . . . .	100,000
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The appropriation to the Alabama Board of Funeral Service shall include a transfer to the State Personnel Department of \$109.

##### SOURCE OF FUNDS:

(1) Alabama Funeral Directors and Embalmers Fund As provided in Section 34-13-23, Code of Alabama 1975, as amended . . . . .	100,000
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Total Alabama Board of Funeral Service . . . . .	100,000	100,000
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#### 43. GEOLOGICAL SURVEY:

(a) Discovery and Development of Mineral, Energy and Water Resources, Geologic Research and Topographic Mapping Program . . . . .	1,985,472
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The appropriation to the Geological Survey shall include a transfer to the State Personnel Department of \$5,028.

##### SOURCE OF FUNDS:

(1) State General Fund . . . . .	1,350,000
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(2) Federal, Local and Miscellaneous Funds .....		635,472	
Total Geological Survey .....	1,350,000	635,472	1,985,472

## 44. GORGAS MEMORIAL BOARD:

(a) Historical Resources Management Program .....			9,945
SOURCE OF FUNDS:			
(1) State General Fund .....	8,645		
As provided in Section 41-9-220, Code of Alabama 1975 and an additional amount.			
(2) Federal, Local and Miscellaneous Funds .....		1,300	
Total Gorgas Memorial Board .....	8,645	1,300	9,945

## 45. GOVERNOR'S CONTINGENCY FUND:

(a) Executive Direction Program .....			400,000
SOURCE OF FUNDS:			
(1) State General Fund .....	400,000		
Total Governor's Contingency Fund .....	400,000		400,000

## 46. GOVERNOR'S MANSION ADVISORY BOARD:

(a) Historical Resources Management Program .....			8,500
SOURCE OF FUNDS:			
(1) State General Fund Transfer .....	8,500		
Total Governor's Mansion Advisory Board .....	8,500		8,500

## 47. GOVERNOR'S MANSION AND COASTAL MANSION:

(a) Executive Direction Program .....			177,000
SOURCE OF FUNDS:			
(1) State General Fund .....	177,000		
Total Governor's Mansion and Coastal Mansion .....	177,000		177,000

**48. GOVERNOR'S OFFICE:**

(a) Executive Direction Program . . . . .		1,358,000
The appropriation to the Governor's Office shall include a transfer to the State Personnel Department of \$2,732.		
SOURCE OF FUNDS:		
(1) State General Fund . . . . .	1,358,000	
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Total Governor's Office . . . . .	1,358,000	1,358,000
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**49. GOVERNOR'S OFFICE-LEGAL:**

(a) Executive Direction Program . . . . .		102,000
SOURCE OF FUNDS:		
(1) State General Fund . . . . .	102,000	
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Total Governor's Office—Legal . . . . .	102,000	102,000
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**50. GOVERNOR'S VOUNTARY CITIZEN PARTICIPATION:**

(a) Executive Direction Program . . . . .		59,000
SOURCE OF FUNDS:		
(1) Federal Funds . . . . .	59,000	
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Total Governor's Voluntary Citizen Participation . . . . .	59,000	59,000
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**51. HEALTH, DEPARTMENT OF PUBLIC:**

(a) Clinical Health Services Program . . . . .		42,257,304
(b) Health Support Services Program . . . . .		48,616,383
Of this amount \$6,577,885 shall go to support local health department services of which \$3,685,000 shall be used to provide a minimum staff in each of the sixty-seven counties, and the remaining amount shall be distributed on a one-to-one match with locally appropriated funds for the support of local health services on a per capita basis. At the end of the first quarter, any unmatched funds may be distributed to		



other counties with appropriate matching funds.

- (c) Administrative Services Program ..... 4,506,456

The appropriation to the Department of Public Health shall include a transfer to the State Personnel Department of \$128,132.

**SOURCE OF FUNDS:**

(1) State General Fund .....	16,000,000		
(2) Cigarette Tax—\$.01 .....		1,175,000	
As provided in Section 40-25-2 and Section 40-25-23, Code of Alabama 1975, as amended.			
(3) Cigarette Tax—\$.02 .....		2,165,116	
As provided in Section 40-25-2 and Section 40-25-23, Code of Alabama 1975, as amended.			
(4) Vital Statistics Fund ....		1,409,239	
(5) Hospital Licensing Fund ..		205,000	
(6) Emergency Medical Services Fund .....		40,000	
As provided in Section 22-18-4, Code of Alabama 1975.			
(7) Local Health Departments		31,398,707	
(8) Nuclear Monitoring Fund		100,000	
(9) Radiation Safety Fund ...		50,000	
(10) Miscellaneous Funds .....		3,601,773	
(11) Federal Funds .....		39,235,308	
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Total Department of Public Health .....	16,000,000	79,380,143	95,380,143
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**51A. HEALTH PLANNING AGENCY:**

- (a) Health Support Services Program ..... 2,130,700

The appropriation to the Health Planning Agency shall include a transfer to the State Personnel Department of \$1,639.

**SOURCE OF FUNDS:**

(1) State General Fund .....	220,700	
(2) Certificate of Need .....		460,000

(3) Federal, Local and Miscellaneous Funds .....		1,450,000	
Total Health Planning Agency		220,700	2,130,700
52. HEARING AID DEALERS, ALABAMA BOARD OF:			
(a) Professional and Occupational Licensing and Regulation Program .....			9,500
SOURCE OF FUNDS:			
(1) State Board of Health—Hearing Aid Fund .....		9,500	
As provided in Section 34-14-33, Code of Alabama 1975.			
Total Alabama Board of Hearing Aid Dealers .....		9,500	9,500
53. HEATING AND AIR CONDITIONING CONTRACTORS, BOARD OF:			
(a) Professional and Occupational Licensing and Regulation Program .....			97,552
The appropriation to the Board of Heating and Air Conditioning Contractors shall include a transfer to the State Personnel Department of \$146.			
SOURCE OF FUNDS:			
(1) Heating and Air Conditioning Contractors Fund .....		97,552	
Total Board of Heating and Air Conditioning Contractors ..		97,552	97,552
54. ALABAMA HERITAGE TRUST FUND:			
(a) Fiscal Management Program ..			20,000
SOURCE OF FUNDS:			
(1) Heritage Trust Income .....		20,000	
Total Alabama Heritage Trust Fund .....		20,000	20,000

## 55. HIGHWAY DEPARTMENT:

(a) Central Administration Program .....	8,227,774
(b) Division and District Supervision Program .....	16,079,297
(c) Operations & Support Services Program .....	7,118,870
(d) Maintenance Program .....	83,244,241
(e) Non-Programmatic Expenditures .....	40,590,134
Proposed Spending Plan for the above (e) includes the following:	
Debt Service.....	39,934,675
Equipment—Other than Automotive ..	655,459
(f) Construction-Federal Air Program .....	403,281,987
Proposed Spending Plan for the above (f) includes the following:	
Federal Aid Matching .....	55,987,188
Non-Participating Work on Federal Projects .....	1,000,000
Federal Aid .....	346,294,799
(g) Construction-State Program ..	15,000,000
(h) Operations-Land and Buildings	1,339,000
The appropriation to the Highway Department shall include a transfer to the State Personnel Department of \$271,601.	
SOURCE OF FUNDS:	
(1) State General Fund-Transfer .....	75,000
(2) Public Road and Bridge Fund .....	228,511,504
(3) Federal Aid .....	346,294,799
There is hereby appropriated, for payment of the principal of and the interest on all bonds heretofore or hereafter issued for public highways and bridge purposes, or either, by the State of Alabama, Alabama Highway Authority, Alabama Federal Aid	

Highway Finance Authority, or Alabama Highway Finance Corporation, a total of \$39,934,675 or so much as may be necessary for payment of said principal and interest at their respective maturities, of the revenues pledged for such payment.

The Highway Director with the consent of the Governor and the Finance Director shall have the authority to transfer any appropriation or any portion thereof between and among subsections, (a), (b), (c), (d), (e), (f), (g), (h), of this section whenever such transfer shall be necessary to assure maximum utilization of Federal matching Funds which shall become available. In the event that there shall not be sufficient funds available for payment of all appropriations hereinabove made, the following provisions shall be applicable. In the event of such insufficiency in respect of the said revenues accruing to the State Highway Department:

- (1) the appropriations made for Debt Service in section (e) hereof shall be paid in full-
- (2) the appropriations from the revenues accruing to the State Highway Department that are herein made for the purposes referred to in Sections (a), (b), (c), (d), (e), (f), (g), (h) except for Debt Service, hereof shall be allocated among the purposes referred to in said Sec-

tions in such order and with such priorities as the State Highway Director shall from time to time direct. The funds appropriated in section (f) hereof, for the matching Federal funds, shall not revert at the end of the fiscal year for which such appropriations are made, but shall remain available for the purpose for which such appropriation was made. In addition to all appropriations hereinabove made there is hereby appropriated to the State Highway Department all Federal Funds accruing thereto to be expended only for the purpose for which such funds are made available. Not later than ninety (90) days following the end of each fiscal year for which appropriations are made herein, the State Highway Director shall transmit to the Governor, Lieutenant Governor, and each member of the Legislature, a report stating the portions of each appropriation made herein that have been spent in each county in the State during the fiscal year then ended.

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Total Highway Department . . .	75,000	574,806,303	574,881,303
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56. HISTORIC BLAKELEY AUTHORITY:

(a) Tourism and Travel Promotion Program . . . . .	145,733
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SOURCE OF FUNDS:

(1) State General Fund . . . . .	125,733
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(2) Federal, Local and Miscellaneous Funds .....		20,000	
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Total Historic Blakeley Authority .....	125,733	20,000	145,733
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57. HISTORIC CHATTAHOOCHEE COMMISSION:

(a) Historical Resources Management Program .....			132,750
SOURCE OF FUNDS:			
(1) State General Fund .....	80,000		
(2) Federal, Local and Miscellaneous Funds .....		52,750	
<hr/>			
Total Historic Chattahoochee Commission .....	80,000	52,750	132,750
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58. HISTORICAL COMMISSION, ALABAMA:

(a) Historical Resources Management Program .....			1,137,475
(b) Historical Resources Management Program-Capital Outlay .			500,000
The appropriation to the Alabama Historical Commission shall include a transfer to the State Personnel Department of \$2,696.			
SOURCE OF FUNDS:			
(1) State General Fund-Transfer .....	537,908		
The State General Fund appropriation shall be distributed as follows:			
Historical Commission, Alabama .....	384,586		
Historical Commission, Alabama-La Grange .....	8,140		
Historical Commission, Alabama-Richmond P. Hobson Memorial Board .....	5,994		
Historical Commission, Alabama-Fort Morgan .....	105,938		

Historical Commission, Alabama-Fort Toulouse .....	21,250		
Historical Commission, Alabama-John T. Morgan House, Selma .....	12,000		
(2) State General Fund-Transfer-Capital Outlay ..		500,000	
The State General Fund Transfer for Capital Outlay shall be distributed as follows:			
Cahaba .....	200,000		
John T. Morgan House .....	50,000		
Fendall Hall .....	250,000		
(3) Federal, Local and Miscellaneous Funds .....		599,567	
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Total Alabama Historical Commission .....	1,037,908	599,567	1,637,475
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59. INDUSTRIAL RELATIONS, DEPARTMENT OF:

(a) Unemployment Compensation Program .....		15,137,025	
(b) Skills Enhancement and Employment Opportunities Program .....		18,056,913	
(c) Industrial Safety and Accident Prevention Program .....		6,707,903	
(d) Administrative Services Program .....		7,690,028	
(e) Employment and Social Opportunities Program .....		387,970	
The appropriation to the Department of Industrial Relations shall include a transfer to the State Personnel Department of \$149,335.			
SOURCE OF FUNDS:			
(1) State General Fund .....	750,000		
(2) Federal, Local and Miscellaneous Funds .....		47,229,839	
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Total Department of Industrial Relations .....	750,000	47,229,839	47,979,839
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**60. INSURANCE, DEPARTMENT  
OF:**

- (a) Regulatory Services Program . . . . . 1,556,484  
The appropriation to the Department of Insurance shall include a transfer to the State Personnel Department of \$4,117.

**SOURCE OF FUNDS:**

- (1) State General Fund . . . . . 1,260,000  
(2) Fire Marshals' Fund . . . . . 296,484

As provided in Section 24-5-10, Code of Alabama 1975, as amended. Any balance in excess of \$50,000 at the end of the fiscal year shall be transferred to the State General Fund.

Total Department of Insurance.

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1,260,000	296,484	1,556,484
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**61. INSURANCE BOARD, STATE  
EMPLOYEES':**

- (a) Administrative Support Services Program . . . . . 75,000  
The appropriation to the State Employees' Insurance Board shall include a transfer to the State Personnel Department of \$73.

**SOURCE OF FUNDS:**

- (1) State General Fund . . . . . 75,000

Total State Employees' Insurance Board . . . . .

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75,000	75,000
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**62. INTERIOR DESIGNERS, ALABAMA STATE BOARD OF REGISTRATION FOR:**

- (a) Professional and Occupational Licensing and Regulation Program . . . . . 4,200

**SOURCE OF FUNDS:**

- (1) Interior Designers Fund . . . . . 4,200



As provided in Section 34-15A-7, Code of Alabama 1975 (1983 Cum. Supp.).

Total Alabama State Board of Registration for Interior Designers .....	4,200	4,200
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63. LABOR, DEPARTMENT OF:

(a) Regulatory Services Program .		299,000	
The appropriation to the Labor Department shall include a transfer to the State Personnel Department of \$546.			
SOURCE OF FUNDS:			
(1) State General Fund .....	254,000		
(2) Federal, Local and Miscellaneous Funds .....		45,000	
Total Department of Labor ...	254,000	45,000	299,000

64. LANDSCAPE ARCHITECTS, BOARD OF EXAMINERS OF:

(a) Professional and Occupational Licensing and Regulation Program .....		11,645	
SOURCE OF FUNDS:			
(1) Landscape Architects Fund .....		11,645	
As provided in Section 34-17-6, Code of Alabama 1975.			
Total Board of Examiners of Landscape Architects ..		11,645	11,645

65. LIQUEFIED PETROLEUM GAS BOARD:

(a) Regulatory Services Program .		232,000	
The appropriation to the Liquefied Petroleum Gas Board shall include a transfer to the State Personnel Department of \$546.			
SOURCE OF FUNDS:			
(1) Liquefied Petroleum Gas Board Fund .....		232,000	

Total Liquefied Petroleum Gas Board .....	232,000	232,000
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## 66. MEDICAID AGENCY, ALABAMA:

(a) Medical Assistance through Medicaid Program .....	435,361,400
The appropriation to the Alabama Medicaid Agency shall include a transfer to the State Personnel Department of \$16,941.	

## SOURCE OF FUNDS:

(1) State General Fund-Transfer .....	101,354,228
(2) Transfer from Pensions and Security .....	528,000
(3) Transfer from Mental Health .....	19,101,600
(4) Federal, Local and Miscellaneous Funds .....	314,377,572

Total Alabama Medicaid Agency .....	101,354,228	334,007,172	435,361,400
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## 67. MENTAL HEALTH, DEPARTMENT OF:

(a) Institutional Treatment and Care-Mental Illness Program .....	71,094,684
(b) Institutional Treatment and Care-Mental Retardation Program .....	57,488,885
(c) Institutional Treatment and Care-Criminally Insane Program .....	2,721,160
(d) Non-Institutional Treatment and Care-Program .....	16,800,642
(e) Administrative Services Program .....	3,849,477
(f) Cedar Lodge Alcohol Treatment Center-Capital Outlay .....	175,000
(g) Community Mental Health Program .....	19,738,700

It is the intent of the Legislature that this appropriation be used to fund Community Mental Health Programs and that none of said appropriation be shifted to any other pro-

gram. The appropriation herein provided shall be for the provision of community mental illness and substance abuse programs and services operated by Mental Health/Mental Retardation Boards created pursuant to Section 22-51-1 et seq., Code of Alabama 1975, and certified by the Department of Mental Health. In the event that no such program is certified by the Department of Mental Health in a particular catchment area, funds under this appropriation may be expended through other certified community programs in said catchment area. Of the appropriation hereinabove made to the Department of Mental Health, there shall be at least \$5,200,000 expended for the treatment of rehabilitation for and education on alcohol and drug abuse. The appropriation to the Department of Mental Health shall include a transfer to the State Personnel Department of \$383,520.

**SOURCE OF FUNDS:**

(1) Special Mental Health Trust Fund .....	104,479,595
For Operations and Maintenance of the State Mental Health Department including the purchase of drugs for medically indigent mental patients not hospitalized at time of receiving drugs at the Alabama State Hospitals.	
(2) Special Mental Health Trust Fund-Community Programs .....	10,525,871
(3) Transfer from ABC Profits .....	1,000,000
(4) Cigarette Tax—\$.01 .....	850,000
(5) Cigarette Tax—\$.02 .....	4,600,000
(6) Transfer from Pensions	

and Security-Title XX Funds-Community Pro- grams .....	4,500,000	
(7) Federal, Local and Miscel- laneous Funds .....	45,913,082	
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Total Department of Mental Health .....	171,868,548	171,868,548
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In addition to the appropriations made hereinabove, there is also hereby appropriated all funds, as determined by the State Budget Officer, that will accrue to the Special Mental Health Trust Fund from the passage of House Bills 206 and 615 of the 1984 Regular Legislative Session.

#### 68. MILITARY DEPARTMENT:

(a) Military Operations Program ..	4,725,500
(b) Capital Outlay .....	674,500

The appropriation to the Military Department shall include a transfer to the State Personnel Department of \$11,403.

#### SOURCE OF FUNDS:

(1) State General Fund-Oper- ations .....	1,377,426
(2) State General Fund-Quar- terly Allowances Head- quarters-Regular Allow- ance Units to be used solely for operating ex- penses; provided, that no more than \$4,500 shall be allotted in any fiscal year for the Alabama National Guard Headquarters .....	1,192,590
(3) State General Fund- Transfer-Capital Outlay for Architect and Engi- neering Services and spec- ifications and construction of facilities .....	674,500
(4) State General Fund-Act- ive Military Service .....	142,900
(5) State General Fund- Transfer to Armory Com- mission .....	2,007,584

(6) State General Fund-Dropping Allowance .....	5,000	
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Total Military Department ...	5,400,000	5,400,000
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69. MILITARY DEPARTMENT-  
ARMORY COMMISSION OF AL-  
ABAMA:

(a) Military Operations Program .		3,504,101
SOURCE OF FUNDS:		
(1) Transfer from Military Department .....	2,007,584	
(2) Federal, Local and Miscellaneous Funds .....	1,496,517	
The funds hereinabove appropriated to the Armory Commission shall be payable from the funds in the State Treasury to the credit of the Armory Commission and the appropriation hereinabove made includes the appropriation made for the care, maintenance, and construction of facilities. Provided, however, that the last Federal Government service contract reimbursement shall not revert to the State General Fund. Any surplus remaining in the Armory Commission Fund at the end of the fiscal year in excess of \$50,000 shall be transferred to the State General Fund.		
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Total Armory Commission of Alabama .....	3,504,101	3,504,101
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70. MOTOR SPORTS HALL OF  
FAME:

(a) Tourism and Travel Promotion Program .....		75,000
SOURCE OF FUNDS:		
(1) State General Fund .....	75,000	
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Total Motor Sports Hall of Fame .....	75,000	75,000
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## 71. MUSIC HALL OF FAME BOARD:

(a) Fine Arts Program .....		55,500
SOURCE OF FUNDS:		
(1) State General Fund .....	35,000	
(2) Federal, Local and Miscellaneous Funds .....		20,500
Total Music Hall of Fame Board .....	35,000	20,500
		55,500

## 72. NURSING HOME ADMINISTRATORS, BOARD OF EXAMINERS OF:

(a) Professional and Occupational Licensing and Regulation Program .....		40,000
The appropriation to the Board of Examiners of Nursing Home Administrators shall include a transfer to the State Personnel Department of \$73.		
SOURCE OF FUNDS:		
(1) Board of Examiners of Nursing Home Administrators Fund .....		40,000
As provided in Section 34-20-7, Code of Alabama 1975, as amended.		
Total Board of Examiners of Nursing Home Administrators .....		40,000
		40,000

## 73. OIL AND GAS BOARD:

(a) Management and Regulation of Oil and Gas Exploration and Development Program .....		1,520,000
The appropriation to the Oil and Gas Board shall include a transfer to the State Personnel Department of \$2,769.		
SOURCE OF FUNDS:		
(1) State General Fund .....	1,500,000	

(2) Federal, Local and Miscellaneous Funds .....		20,000	
Total Oil and Gas Board .....	1,500,000	20,000	1,520,000

74. PARDONS AND PAROLES,  
BOARD OF:

(a) Administration of Pardons and Paroles Program .....			7,048,650
The appropriation to the Board of Pardons and Paroles shall include a transfer to the State Personnel Department of \$17,888.			
SOURCE OF FUNDS:			
(1) State General Fund .....	5,400,000		
(2) Probationers Upkeep Fund .....		1,551,573	
(3) Federal, Local and Miscellaneous Funds .....		97,077	
Total Board of Pardons and Paroles .....	5,400,000	1,648,650	7,048,650

75. PEACE OFFICERS' ANNUITY  
AND BENEFIT FUND, ALA-  
BAMA:

(a) Retirement Systems Program .			211,433
The appropriation to the Alabama Peace Officers' Annuity and Benefit Fund shall include a transfer to the State Personnel Department of \$255.			
SOURCE OF FUNDS:			
(1) Peace Officers' Annuity and Benefit Fund .....		211,433	
As provided in Section 36-21-66, Code of Alabama 1975 .....			
Total Alabama Peace Officers' Annuity and Benefit Fund .....		211,433	211,433

76. PENSIONS AND SECURITY,  
DEPARTMENT OF:

(a) Economic Assistance Program .....		172,189,979	
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(b) Community Work Experience Program .....	300,000
(c) Social Services Program ..	70,805,110
(d) Title XX Transfer to the Department of Mental Health .....	4,500,000
(e) Client Services Allotment to County Departments of Pensions and Security ...	169,500

It is the intent of the Legislature that allotments be made to the county departments of Pensions and Security to fund, upon approval of the county department director, supplemental client services not otherwise provided for through existing programs of the Department of Pensions and Security. Allotments shall be distributed to the county departments based on the counties' populations according to the 1980 census as follows: county populations greater than 50,000, \$3,000; county populations less than 50,000, \$1,500. The appropriation to the Department of Pensions and Security shall include a transfer to the State Personnel Department of \$295,063.

#### SOURCE OF FUNDS:

(1) Federal, Local and Miscellaneous Funds .....	166,539,373
(2) ABC Profits .....	1,717,479
(3) Whiskey Tax .....	18,762,737
(4) Beer Tax .....	7,280,000
(5) Pension Residue .....	13,500,000
(6) Sales Tax .....	1,322,000
(7) Franchise Tax .....	10,500,000
(8) Contracts, Service Fees ..	120,000
(9) Child Support Collections .....	2,423,000
(10) Sales Tax for Food Stamps .....	15,000,000
(11) Cigarette Tax .....	4,200,000
(12) Title XX Funds-Transfer	



to Mental Health Department .....	4,500,000	
(13) Contractor's Gross Receipts Tax .....	2,100,000	
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Total Department of Pensions and Security .....	247,964,589	247,964,589
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77. PERSONNEL DEPARTMENT,  
STATE:

(a) Administrative Support Program .....		2,104,262
SOURCE OF FUNDS:		
(1) Transfer from Department of Aeronautics .....	219	
(2) Transfer from Commission on Aging .....	1,057	
(3) Transfer from Board of Public Accountancy .....	73	
(4) Transfer from Agriculture and Industries .....	30,931	
(5) Transfer from Agricultural Center Board .....	547	
(6) Transfer from Air Transportation .....	1,384	
(7) Transfer from Alcoholic Beverage Control Board ..	63,793	
(8) Transfer from Board of Registration for Architects ..	109	
(9) Transfer from Archives and History .....	3,024	
(10) Transfer from the Council on Arts and Humanities ..	619	
(11) Transfer from the Office of the Attorney General ..	9,655	
(12) Transfer from the State Auditor .....	1,785	
(13) Transfer from State Banking Department .....	3,388	
(14) Transfer from Finance-Alabama Building Authority ..	2,332	
(15) Transfer from Finance-Alabama Building Finance Authority .....	2,332	
(16) Transfer from Building Commission .....	1,494	
(17) Transfer from Chiropractic Examiners .....	109	
(18) Transfer from Civil Air Patrol .....	73	

(19) Transfer from Local Civil Defense .....	930
(20) Transfer from Conservation Department .....	59,348
(21) Transfer from State Licensing Board for General Contractors .....	401
(22) Transfer from Department of Corrections .....	134,726
(23) Transfer from Board of Cosmetology .....	656
(24) Transfer from Criminal Justice Information Center .....	3,206
(25) Transfer from Alabama Development Office .....	2,441
(26) Transfer from State Docks .....	39,711
(27) Transfer from Education .....	91,080
(28) Transfer from the Department of Economic and Community Affairs .....	14,755
(29) Transfer from Emergency Management .....	2,004
(30) Transfer from Board of Registration for Professional Engineers and Land Surveyors .....	291
(31) Transfer from Environmental Management .....	15,119
(32) Transfer from Ethics Commission .....	547
(33) Transfer from Examiners of Public Accounts .....	8,853
(34) Transfer from Farmer's Market Authority .....	182
(35) Transfer from Finance Department .....	37,853
(36) Transfer from Firefighters Personnel Standards and Education Commission .....	182
(37) Transfer from Foreign Trade Commission .....	36
(38) Transfer from Department of Forensic Sciences .....	5,938
(39) Transfer from Forestry Commission .....	32,643
(40) Transfer from Funeral Services .....	109
(41) Transfer from Geological Survey .....	5,028

(42) Transfer from Governor's Office .....	2,732
(43) Transfer from Department of Public Health .....	129,771
(44) Transfer from Board of Heating and Air Conditioning Contractors .....	146
(45) Transfer from Highway Department .....	271,601
(46) Transfer from Alabama Historical Commission .....	2,696
(47) Transfer from Industrial Relations .....	149,335
(48) Transfer from Insurance Department .....	4,117
(49) Transfer from State Employees' Insurance Board .....	73
(50) Transfer from Department of Labor .....	546
(51) Transfer from Legislative Reference Service .....	546
(52) Transfer from Liquefied Petroleum Gas Board .....	546
(53) Transfer from Alabama Medicaid Agency .....	16,941
(54) Transfer from Department of Mental Health .....	383,520
(55) Transfer from Military Department .....	11,403
(56) Transfer from Board of Nursing .....	838
(57) Transfer from Examiners of Nursing Home Administrators .....	73
(58) Transfer from Oil and Gas Board .....	2,769
(59) Transfer from Pardons and Paroles .....	17,888
(60) Transfer from Peace Officers' Annuity and Benefit Fund .....	255
(61) Transfer from Peace Officers' Standards and Training Commission .....	182
(62) Transfer from Department of Pensions and Security .....	295,063
(63) Transfer from Physical Fitness Commission .....	291
(64) Transfer from Board of Physical Therapy .....	73

(65) Transfer from Public-Library Service .....	4,481	
(66) Transfer from Department of Public Safety .....	83,721	
(67) Transfer from Public Service Commission .....	7,760	
(68) Transfer from Publicity and Information .....	4,335	
(69) Transfer from Alabama Public Television Network .....	6,376	
(70) Transfer from Real Estate Commission .....	984	
(71) Transfer from Retirement Systems .....	6,485	
(72) Transfer from Department of Revenue .....	78,875	
(73) Transfer from Secretary of State .....	1,858	
(74) Transfer from Securities Commission .....	1,384	
(75) Transfer from Board of Social Work Examiners ..	73	
(76) Transfer from Soil and Water Conservation Committee .....	328	
(77) Transfer from Surface Mining Commission .....	3,971	
(78) Transfer from State Treasurer .....	2,951	
(79) Transfer from Department of Veterans Affairs .....	3,753	
(80) Transfer from Department of Youth Services .....	26,559	
Total State Personnel Department .....	2,104,262	2,104,262

78. PHYSICAL THERAPY, BOARD  
OF:

- (a) Professional and Occupational Licensing and Regulation Program .....

58,011

The appropriation to the Board of Physical Therapy shall include a transfer to the State Personnel Department of \$73.

SOURCE OF FUNDS:

- (1) Physical Therapy Fund ..

58,011

As provided in Section 34-  
24-195, Code of Alabama  
1975.

Total Board of Physical Ther- apy .....	58,011	58,011
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79. POLYGRAPH EXAMINERS,  
BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program .....		29,500
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SOURCE OF FUNDS:

(1) Board of Polygraph Exam- iners Fund .....	29,500	
As provided in Section 34- 25-5, Code of Alabama 1975, as amended.		

Total Board of Polygraph Ex- aminers .....	29,500	29,500
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80. PROSECUTION SERVICES, OF-  
FICE OF:

(a) Prosecution, Training, Educa- tion and Management Program .....		443,912
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SOURCE OF FUNDS:

(1) Office of Prosecution Ser- vices Fund .....	443,912	
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Total Office of Prosecution Services .....	443,912	443,912
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81. PSYCHOLOGY, ALABAMA  
BOARD OF EXAMINERS IN:

(a) Professional and Occupational Licensing and Regulation Pro- gram .....		27,466
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SOURCE OF FUNDS:

(1) Board of Examiners of Psychology Fund .....	27,466	
As provided in Section 34- 26-43, Code of Alabama 1975, as amended.		

Total Alabama Board of Ex- aminers in Psychology .....	27,466	27,466
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82. PUBLIC SAFETY, DEPARTMENT OF:

(a) Traffic Control and Accident Prevention Program .....	20,220,942
(b) Criminal Investigation Program .....	4,281,638
(c) Driver's Licensing and Improvement Program .....	7,769,606
(d) Public Safety Support Services Program .....	5,665,389
(e) Administrative Services Program .....	2,091,756
(f) Alabama Criminal Justice Training Center Program .....	970,669

The appropriation to the Department of Public Safety shall include a transfer to the State Personnel Department of \$83,721.

SOURCE OF FUNDS:

(1) State General Fund .....	41,000,000	
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Total Department of Public Safety .....	41,000,000	41,000,000
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83. PUBLIC SERVICE COMMISSION:

(a) Regulatory Services Program ..	4,651,332
(b) Administrative Services Program .....	1,153,168

The appropriation to the Public Service Commission shall include a transfer to the State Personnel Department of \$7,760.

SOURCE OF FUNDS:

(1) Public Service Commission Fund .....	5,616,500
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The above appropriation to the Alabama Public Service Commission shall be payable only from inspection and supervision fees paid by utilities and transportation companies and such parts or percentage of fees and taxes paid by motor carrier or motor transportation companies as are now or may be set

aside by law to be used by the Commission. Any surplus remaining in the Alabama Public Service Commission Fund at the end of the fiscal year in excess of \$800,000 shall be transferred to the State General Fund.

(2) Federal Funds .....	188,000	
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Total Public Service Commission .....	5,804,500	5,804,500
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#### 84. PUBLICITY AND INFORMATION, BUREAU OF:

- (a) Tourism and Travel Promotion Program ..... 2,758,632

The appropriation to the Bureau of Publicity and Information shall include a transfer to the State Personnel Department of \$4,335.

##### SOURCE OF FUNDS:

(1) State General Fund-Transfer .....	595,000	
(2) Lodgings Tax (\$.01) .....		2,163,632
Receipts collected under the provisions of Section 40-26-1 et seq., Code of Alabama 1975, as amended.		
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Total Bureau of Publicity and Information .....	595,000	2,163,632	2,758,632
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#### 85. REAL ESTATE COMMISSION, ALABAMA:

- (a) Professional and Occupational Licensing and Regulation Program ..... 748,403
- The appropriation to the Alabama Real Estate Commission shall include a transfer to the State Personnel Department of \$984.

**SOURCE OF FUNDS:**

(1) Alabama Real Estate Commission Fund .....	748,403	
As provided in Section 34-27-4, Code of Alabama 1975, as amended and the total expenditures shall in no manner exceed the amounts hereby appropriated .....		
<b>Total Alabama Real Estate Commission .....</b>	<b>748,403</b>	<b>748,403</b>

**86. REVENUE DEPARTMENT:**

(a) State Revenue Administration Program .....		40,072,997
The appropriation to the Revenue Department shall include a transfer to the State Personnel Department of \$78,875.		
<b>SOURCE OF FUNDS:</b>		
(1) State General Fund-Transfer .....	250,000	
As provided in Section 40-7-70, Code of Alabama 1975, to maintain a program for the equalization of ad valorem tax assessments.		
(2) Transfer from the gross proceeds of Cigarette Tax Collections .....		1,222,566
As provided in Section 40-25-2 and Section 40-25-23, Code of Alabama 1975, as amended.		
(3) Transfer from the gross proceeds of Financial Institution Excise Tax Collections .....		207,080
(4) Transfer from the gross proceeds of the Forest Severance Tax Collections .....		123,451
(5) Transfer from the gross proceeds of Gasoline Tax Collections .....		3,623,893
(6) Transfer from the Income Tax Collections .....		12,305,306
(7) Transfer from the gross		



proceeds of Motor Fuel Tax Collections .....	756,637
(8) Transfer from the gross proceeds of Motor Vehicle License Collections .....	1,636,725
(9) Transfer from the Pension Fund as part of the cost of collections of the 1-Mill Ad Valorem Tax .....	501,770
(10) Transfer from the Public School Fund as part of the cost of collections of the 3- Mill Ad Valorem Tax ....	1,234,513
(11) Transfer from the gross proceeds of Sales Tax Col- lections .....	10,855,749
(12) Transfer from the gross proceeds of the Tobacco Tax Collections .....	31,858
(13) Transfer from the gross proceeds of Use Tax Col- lections .....	1,186,725
(14) Transfer from the gross proceeds of the Utility Tax Collections .....	2,636,282
As provided in Section 40- 21-1, Code of Alabama 1975.	
(15) Local Funds .....	3,500,442

The amounts hereinabove appropriated for the cost of maintenance and operations of the Department of Revenue are in lieu of any other statutory provisions for the payment of the cost of operating said Department or collections of the taxes as authorized by law.

Provided, however, in addition to the amount hereinabove appropriated, there is hereby appropriated to the Department of Revenue all sums allowed the Department of Revenue by local Acts of the Legislature is a charge for

the collection of taxes or  
licenses.

Total Revenue Department . . .	250,000	39,822,997	40,072,997
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87. REVENUE—BOARDS OF  
EQUALIZATION:

(a) State Revenue Administration Program . . . . .		128,000
SOURCE OF FUNDS:		
(1) State General Fund . . . . .	128,000	
<hr/>		
Total Revenue-Boards of Equalization . . . . .	128,000	128,000

88. REVENUE—MOTOR VEHICLE  
LICENSE:

(a) State Revenue Administration Program . . . . .		2,365,083
SOURCE OF FUNDS:		
(1) Transfer from the gross proceeds of Motor Vehicle License Collections for the purchase only of Motor Vehicle License Tags . . . . .	2,365,083	
<hr/>		
Total Revenue-Motor Vehicle License . . . . .	2,365,083	2,365,083

89. SECRETARY OF STATE:

(a) Administrative Support Ser- vices Program . . . . .		749,952
The appropriation to the Sec- retary of State shall include a transfer to the State Personnel Department of \$1,858.		
SOURCE OF FUNDS:		
(1) State General Fund . . . . .	749,952	
<hr/>		
Total Secretary of State . . . . .	749,952	749,952

90. SECURITIES COMMISSION:

(a) Regulatory Services Program . . . . .	832,000
The appropriation to the Se- curities Commission shall in- clude a transfer to the State	

Personnel Department of  
\$1,384.

**SOURCE OF FUNDS:**

(1) State General Fund .....	457,000		
(2) Industrial Development Bond Notification Fund ..		110,000	
(3) Sales of Checks License Fund .....		8,000	
(4) Exemption Fund .....		257,000	
<hr/>			
Total Securities Commission ..	457,000	375,000	832,000
<hr/>			

**91. SENIOR CITIZENS HALL OF  
FAME, ALABAMA:**

(a) Historical Resources Manage- ment Program .....		25,000	
<b>SOURCE OF FUNDS:</b>			
(1) State General Fund .....	25,000		
<hr/>			
Total Alabama Senior Citizens Hall of Fame .....	25,000		25,000
<hr/>			

**92. SOCIAL WORK EXAMINERS,  
ALABAMA STATE BOARD OF:**

(a) Professional and Occupational Licensing and Regulation Pro- gram .....		50,361	
The appropriation to the Ala- bama State Board of Social Work Examiners shall include a transfer to the State Person- nel Department of \$73.			
<b>SOURCE OF FUNDS:</b>			
(1) Alabama State Board of Social Work Examiners Fund .....		50,361	
As provided in Section 34- 30-6, Code of Alabama 1975 (1983 Cum. Supp.).			
<hr/>			
Total Alabama State Board of Social Work Examiners .....		50,361	50,361
<hr/>			

**93. SOIL AND WATER CONSERVA-  
TION COMMITTEE, STATE:**

(a) Water Resource Development Program .....		790,000	
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(b) Soil Classifiers Fund Program . . . . .	2,000	
(c) Administrative Services Program . . . . .	260,000	

The appropriation to the State Soil and Water Conservation Committee shall include a transfer to the State Personnel Department of \$328.

**SOURCE OF FUNDS:**

(1) State General Fund . . . . .	1,050,000	2,000	
(2) Soil Classifiers Fund . . . . .			
<hr/>			
Total State Soil and Water Conservation Committee . . . . .	1,050,000	2,000	1,052,000

**94. SOUTHERN GROWTH POLICIES BOARD:**

(a) Special Services Program . . . . .		27,830
<b>SOURCE OF FUNDS:</b>		
(1) State General Fund . . . . .	27,830	
<hr/>		
Total Southern Growth Policies Board . . . . .	27,830	27,830

**95. SPACE SCIENCE EXHIBIT COMMISSION, ALABAMA:**

(a) Tourism and Travel Promotion Program . . . . .		310,000
<b>SOURCE OF FUNDS:</b>		
(1) State General Fund-Capital Outlay . . . . .	310,000	
<hr/>		
Total Alabama Space Science Exhibit Commission . . . . .	310,000	310,000

**96. SPEECH PATHOLOGY AND AUDIOLOGY, ALABAMA BOARD OF EXAMINERS FOR:**

(a) Professional and Occupational Licensing and Regulation Program . . . . .		18,731
<b>SOURCE OF FUNDS:</b>		
(1) Alabama Board of Examiners for Speech Pathology and Audiology Fund . . . . .		18,731

As Provided in Section 34-  
28A-44, Code of Alabama  
1975.

Total Alabama Board of Ex- aminers for Speech Pathology and Audiology .....	18,731	18,731
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97. SPORTS HALL OF FAME, ALA-  
BAMA:

(a) Historical Resources Manage- ment Program .....		70,000
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SOURCE OF FUNDS:

(1) State General Fund .....	70,000	
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Total Alabama Sports Hall of Fame .....	70,000	70,000
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98. SURFACE MINING COMMIS-  
SION, ALABAMA:

(a) Industrial Safety and Accident Prevention Program .....		4,984,793
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The appropriation to the Ala-  
bama Surface Mining Commis-  
sion shall include a transfer to  
the State Personnel Depart-  
ment of \$3,971.

SOURCE OF FUNDS:

(1) Surface Mining Commis- sion Fund .....	4,984,793	
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As provided by Section 9-  
16-103, Code of Alabama  
1975 (1983 Cum. Supp.).  
All fees and charges,  
grants, gifts, fines, bond  
forfeitures or other monies  
received under the above  
act, in addition to the ap-  
propriation herein made,  
are appropriated to the  
Surface Mining Commis-  
sion .....

Total Alabama Surface Mining Commission .....	4,984,793	4,984,793
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99. TANNEHILL FURNACE AND  
FOUNDRY COMMISSION:

(a) Historical Resources Management Program .....				618,000
SOURCE OF FUNDS:				
(1) State General Fund .....	218,000			
(2) State General Fund-Capital Outlay for Furnace Repair .....	60,000			
(3) Federal, Local and Miscellaneous Funds .....		340,000		
<hr/>				
Total Tannehill Furnace and Foundry Commission .....	278,000	340,000		618,000
<hr/>				
100. TENNESSEE-TOMBIGBEE WATERWAY DEVELOPMENT AUTHORITY:				
(a) Water Resource Development Program .....				382,723
SOURCE OF FUNDS:				
(1) State General Fund .....	130,750			
As provided in Section 33-8-2, Code of Alabama 1975.				
(2) Federal, Local and Miscellaneous Funds .....		251,973		
<hr/>				
Total Tennessee-Tombigbee Waterway Development Authority .....	130,750	251,973		382,723
<hr/>				
101. TREASURER, STATE:				
(a) Fiscal Management Program ..				1,350,000
The appropriation to the State Treasurer shall include a transfer to the State Personnel Department of \$2,951.				
SOURCE OF FUNDS:				
(1) State General Fund .....	1,350,000			
<hr/>				
Total State Treasurer .....	1,350,000			1,350,000
<hr/>				
102. UNIFORM STATE LAWS, COMMISSION ON:				
(a) Special Services Program, Estimated .....				5,000
SOURCE OF FUNDS:				
(1) State General Fund .....	5,000			

As Provided in Section 41-  
9-374, Code of Alabama  
1975.

Total Commission on Uniform State Laws, Estimated .....	5,000	5,000
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103. VETERANS AFFAIRS,  
DEPARTMENT OF:

(a) Administration of Veterans Af- fairs Program .....		2,500,000
(b) Alabama Vietnam Veterans' Leadership Program, Inc. ....		25,000

The expenditure of said appro-  
priation to the Alabama Viet-  
nam Veterans' Leadership Pro-  
gram shall be subject to the  
rules and regulations promul-  
gated by the State Department  
of Veterans' Affairs.

The appropriation to the De-  
partment of Veterans Affairs  
shall include a transfer to the  
State Personnel Department of  
\$3,753.

SOURCE OF FUNDS:

(1) State General Fund .....	2,525,000	
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Total Department of Veterans Affairs .....	2,525,000	2,525,000
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104. VETERINARY MEDICAL  
EXAMINERS, ALABAMA  
STATE BOARD OF:

(a) Professional and Occupational Licensing and Regulation Pro- gram .....		45,000
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SOURCE OF FUNDS:

(1) State Board of Veterinary Medical Examiners Fund .....	45,000	
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As provided in Section 34-  
29-23 and Section 34-29-  
41, Code of Alabama 1975,  
as amended.

Total Alabama State Board of Veterinary Medical Examiners .....	45,000	45,000
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105. WOMAN'S COMMISSION,  
ALABAMA:

(a) Employment and Social Opportunities Program .....		7,650
SOURCE OF FUNDS:		
(1) State General Fund .....	7,650	
	<hr/>	
Total Alabama Women's Commission .....	7,650	7,650
	<hr/>	

106. WOMEN'S HALL OF FAME,  
ALABAMA:

(a) Historical Resources Management Program .....		6,000
SOURCE OF FUNDS:		
(1) State General Fund .....	6,000	
	<hr/>	
Total Alabama Women's Hall of Fame .....	6,000	6,000
	<hr/>	

D. OTHER FUNCTIONS OF GOVERNMENT FUNDED FROM THE STATE GENERAL FUND:

1. ADVERTISING LANDS FOR  
TAX SALE:

(a). State Revenue Administration Program, Estimated .....		60,000
SOURCE OF FUNDS:		
(1) State General Fund .....	60,000	
	<hr/>	
Total Advertising Lands for Tax Sale .....	60,000	60,000
	<hr/>	

2. ARREST OF ABSCONDING  
FELONS:

(a) Criminal Investigation Program, Estimated .....		60,000
SOURCE OF FUNDS:		
(1) State General Fund .....	60,000	
	<hr/>	
Total Arrest of Absconding Felons .....	60,000	60,000
	<hr/>	

3. AUTOMATIC APPEAL EXPENSE:



(a) Legal Advice and Legal Service Program, Estimated.....		250
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## SOURCE OF FUNDS:

(1) State General Fund .....	250	
As provided in Section 12-22-150 and Section 12-22-241, Code of Alabama 1975.		

Total Automatic Appeal Expense .....	250	250
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4. CIVIL COURT COSTS IN CONNECTION WITH AD VALOREM TAX ASSESSMENTS:

(a) State Revenue Administration Program, Estimated.....		200
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## SOURCE OF FUNDS:

(1) State General Fund .....	200	
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Total Civil Court Costs in Connection with Ad Valorem Tax Assessments Appeals .....	200	200
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5. CONSUMER UTILITY RATE HEARING:

(a) Executive Direction Program .....		250,000
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## SOURCE OF FUNDS:

(1) State General Fund Transfer .....	250,000	
As provided in Section 37-1-18 Code of Alabama 1975 (1983 Cum. Supp.).		

Total Consumer Utility Rate Hearing .....	250,000	250,000
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6. COURT-ASSESSED COST NOT OTHERWISE PROVIDED FOR:

(a) Cost Assessed by State and Federal Courts Only Program, Estimated.....		757,000
It is the intent of the Legislature that this appropriation be expended only for costs assessed by state and federal courts.		

## SOURCE OF FUNDS:

(1) State General Fund .....	757,000	
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Total Court-Assessed Cost Not Otherwise Provided For .....	757,000	757,000
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7. COURT COSTS-ACT No. 558,  
1957:

(a) Court Operations Program, Es- timated .....		500
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## SOURCE OF FUNDS:

(1) State General Fund .....	500	
Pursuant to Act No. 558, 1957, page 777.		

Total Court Costs-Act No. 558, 1957 .....	500	500
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8. DISTRIBUTION OF PUBLIC  
DOCUMENTS:

(a) Administrative Support Service Program, Estimated .....		40,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	40,000	
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Total Distribution of Public Documents .....	40,000	40,000
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## 9. ELECTION EXPENSES:

(a) Special Services Program, Esti- mated .....		2,000,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	2,000,000	
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Total Election Expenses .....	2,000,000	2,000,000
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10. EMERGENCY FUND, DEPART-  
MENTAL:

(a) Special Services Program .....		1,000,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	1,000,000	
(This is the appropriation contemplated in Section 41-4-94, Code of Alabama 1975, and shall be the only amount appropriated and		

the total amount expended under the provisions of said section.).

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Total Departmental Emergency Fund .....	1,000,000	1,000,000
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#### 11. FEEDING OF PRISONERS:

(a) Institutional Services-Corrections Program, Estimated .....		3,500,000
SOURCE OF FUNDS:		
(1) State General Fund .....	3,500,000	
For expenses of feeding prisoners in county jails		

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Total Feeding of Prisoners ....	3,500,000	3,500,000
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#### 12. DEPARTMENT OF FINANCE-BUDGET OFFICE-EMPLOYEES' SUGGESTION AWARD PROGRAM:

(a) Fiscal Management Program ..		10,000
SOURCE OF FUNDS:		
(1) State General Fund .....	10,000	

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Total Department of Finance-Budget Office-Employees' Suggestion Award Program .....	10,000	10,000
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#### 13. DEPARTMENT OF FINANCE-CAPITOL MOVING EXPENSES, ESTIMATED:

To be utilized to move all occupants in the State Capitol Building .....		800,000
SOURCE OF FUNDS:		
(1) State General Fund .....	800,000	

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Total Department of Finance-Capitol Moving Expenses, Estimated .....	800,000	800,000
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#### 14. DEPARTMENT OF FINANCE-FEMA,:

Payments of the State's share of Administration costs and

matching grants furnished by the Federal Emergency Man- agement Agency .....		1,000,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	1,000,000	
	<hr/>	

Total Department of Finance- FEMA, .....	1,000,000	1,000,000
	<hr/>	

15. DEPARTMENT OF FINANCE-  
TELEPHONE REVOLVING  
FUND:

400,000

## SOURCE OF FUNDS:

(1) State General Fund .....	400,000	
	<hr/>	

Total Department of Finance- Telephone Revolving Fund ...	400,000	400,000
	<hr/>	

16. FOREST FIRE FUND, EMER-  
GENCY:

(a) Forest Resource Protection Program .....		180,000
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## SOURCE OF FUNDS:

(1) State General Fund- Transfer .....	180,000	
As provided by Section 9- 3-10.1, Code of Alabama 1975.	<hr/>	

Total Emergency Forest Fire Fund .....	180,000	180,000
	<hr/>	

17. GOVERNOR'S CONFERENCE,  
NATIONAL:

(a) Executive Direction Program .		83,100
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## SOURCE OF FUNDS:

(1) State General Fund .....	83,100	
	<hr/>	

Total National Governors' Conference .....	83,100	83,100
	<hr/>	

18. GOVERNOR'S COUNCILLOR:

(a) Executive Direction Program .		20,400
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## SOURCE OF FUNDS:

(1) State General Fund .....	20,400	
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As provided in Section 36-13-13, Code of Alabama 1975 (1983 Cum. Supp.).

Total Governor's Councillor . . .	20,400	20,400
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**19. GOVERNOR'S PROCLAMATION EXPENSES:**

(a) Executive Direction Program, Estimated . . . . .		100,000
SOURCE OF FUNDS:		
(1) State General Fund . . . . .	100,000	
Total Governor's Proclamation Expenses . . . . .	100,000	100,000

**20. GOVERNOR'S WIDOWS RETIREMENT:**

(a) Executive Direction Program . . . . .		14,400
SOURCE OF FUNDS:		
(1) State General Fund . . . . .	14,400	
Total Governor's Widows Retirement . . . . .	14,400	14,400

**21. INTERPRETER'S ACCOUNT:**

(a) Court Support Services Program, Estimated . . . . .		2,000
SOURCE OF FUNDS:		
(1) State General Fund . . . . .	2,000	
As provided in Sections 12-21-131 through 134, Code of Alabama 1975.		
Total Interpreter's Account . . . . .	2,000	2,000

**22. LAW ENFORCEMENT FUND:**

(a) Criminal Investigation Program . . . . .		100
SOURCE OF FUNDS:		
(1) State General Fund-Transfer . . . . .	100	
Total Law Enforcement Fund . . . . .	100	100

23. LAW ENFORCEMENT LEGAL  
DEFENSE:

(a) Legal Advice and Legal Services Program .....		3,000
SOURCE OF FUNDS:		
(1) State General Fund .....	3,000	
To carry out provisions of Section 36-21-1, Code of Alabama 1975.		
<hr/>		
Total Law Enforcement Legal Defense .....	3,000	3,000
<hr/>		

24. MAILING TAX NOTICES:

(a) State Revenue Administration Program, Estimated .....		100
SOURCE OF FUNDS:		
(1) State General Fund .....	100	
<hr/>		
Total Mailing Tax Notices .....	100	100
<hr/>		

25. MENTAL HEALTH TRUST  
FUND, ALABAMA SPECIAL: 35,500,000

SOURCE OF FUNDS:		
(1) State General Fund- Transfer .....	35,500,000	
<hr/>		
Total Alabama Special Mental Health Trust Fund .....	35,500,000	35,500,000
<hr/>		

26. POLICEMAN'S SURVIVOR TUI-  
TION ACT:

(a) Support of Other Educational Activities Program, Estimated		5,000
SOURCE OF FUNDS:		
(1) State General Fund .....	5,000	
<hr/>		
Total Policeman's Survivor Tuition Act .....	5,000	5,000
<hr/>		

27. PRESIDENTIAL ELECTORAL  
EXPENSE:

(a) Administration of Public Docu- ments Program, Estimated ...		1,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	1,000	
<hr/>		
Total Presidential Electoral Expense .....	1,000	1,000
<hr/>		

28. PRINTING OF CODE SUPPLEMENT-LEGISLATIVE REFERENCE SERVICE:

(a) Administration of Public Documents Program, Estimated .....		350,000
SOURCE OF FUNDS:		
(1) State General Fund .....	350,000	
<hr/>		
Total Printing of Code Supplement-Legislative Reference Service .....	350,000	350,000
<hr/>		

29. PRINTING CODES AND SUPPLEMENTS-SECRETARY OF STATE:

(a) Administration of Public Documents Program, Estimated .....		150,000
SOURCE OF FUNDS:		
(1) State General Fund .....	150,000	
<hr/>		
Total Printing Codes and Supplements-Secretary of State .....	150,000	150,000
<hr/>		

30. PRINTING OF LEGISLATIVE ACTS AND JOURNALS:

(a) Administrative Support Services Program, Estimated .....		500,000
SOURCE OF FUNDS:		
(1) State General Fund .....	500,000	
<hr/>		
Total Printing of Legislative Acts and Journals .....	500,000	500,000
<hr/>		

31. PRINTING OF STATE AND COUNTY PRIVILEGE LICENSES:

(a) State Revenue Administration Program, Estimated .....		25,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	25,000	
<hr/>		
Total Printing of State and County Privilege Licenses .....	25,000	25,000
<hr/>		

## 32. PUBLIC DEFENDER:

(a) Court Operations Program, Es- timated .....		55,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	55,000	
For salary of Public De- fender for the 21st Judi- cial Circuit, as provided by Section 15-12-43, Code of Alabama 1975.		
<hr/>		
Total Public Defender .....	55,000	55,000
<hr/>		

33. RECREATION CAPITAL DEVEL-  
OPMENT FUND:

651,000

## SOURCE OF FUNDS:

(1) State General Fund Transfer .....	651,000	
<hr/>		
Total Recreation Capital De- velopment Fund .....	651,000	651,000
<hr/>		

## 34. REGISTRATION OF VOTERS:

(a) Special Services Program, Es- timated .....		1,500,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	1,500,000	
<hr/>		
Total Registration of Voters ..	1,500,000	1,500,000
<hr/>		

## 35. REMOVAL OF PRISONERS:

(a) Administrative Services and Logistical Support Program, Estimated .....		300,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	300,000	
<hr/>		
Total Removal of Prisoners ...	300,000	300,000
<hr/>		



36. SOCIAL SECURITY-COUNTY  
JUDICIAL:

(a) Fringe Benefit Program, Estimated .....		300,000
SOURCE OF FUNDS:		
(1) State General Fund .....	300,000	
Total Social Security-County Judicial .....	300,000	300,000

37. STATE GENERAL FUND, ESTI-  
MATED:

66,683,172

SOURCE OF FUNDS:

(1) Heritage Trust Income Fund Transfer. All income other than income realized on sale of Trust Fund as- sets and not otherwise ap- propriated herein. Estimated .....	66,683,172	
Total State General Fund, Es- timated .....	66,683,172	66,683,172

38 STATE TREASURER-PREVIOUS  
YEAR'S UNPAID WARRANTS:

(a) Special Services Program, Esti- mated .....		250,000
SOURCE OF FUNDS:		
(1) State General Fund .....	250,000	
Total State Treasurer-Previous Year's Unpaid Warrants .....	250,000	250,000

E. FINANCIAL ASSISTANCE TO NON-  
STATE AGENCIES:

1. ANNISTON SUBREGIONAL LI-  
BRARY FOR THE BLIND AND  
HANDICAPPED:

(a) Public Library Services Pro- gram .....		4,500
SOURCE OF FUNDS:		
(1) State General Fund .....	4,500	

Total Anniston Subregional

Library for the Blind and Handicapped .....		4,500	4,500
<hr/>			
2. APPALACHIAN REGIONAL COMMISSION:			
(a) Planning Program .....			189,970
SOURCE OF FUNDS:			
(1) State General Fund .....		189,970	
<hr/>			
Total Appalachian Regional Commission .....		189,970	189,970
<hr/>			
3. ARMED FORCES DAY IN ALA- BAMA:			
(a) Historical Resources Manage- ment Program .....			836
SOURCE OF FUNDS:			
(1) State General Fund .....		836	
<hr/>			
Total Armed Forces Day in Alabama .....		836	836
<hr/>			
4. ARMY AVIATION MUSEUM, FORT RUCKER:			
(a) Historical Resources Manage- ment Program .....			75,000
SOURCE OF FUNDS:			
(1) State General Fund .....		75,000	
<hr/>			
Total Army Aviation Museum, Fort Rucker, AL .....		75,000	75,000
<hr/>			
5. ARTS HALL OF FAME, ALA- BAMA:			
(a) Fine Arts Program .....			4,500
SOURCE OF FUNDS:			
(1) State General Fund .....		4,500	
<hr/>			
Total Alabama Arts Hall of Fame .....		4,500	4,500
<hr/>			
6. AZALEA TRAIL FESTIVAL, MO- BILE:			
(a) Tourism and Travel Promotion Program .....			1,556

**SOURCE OF FUNDS:**

(1) State General Fund .....	1,556	
<hr/>		
Total Mobile Azalea Trail Festival .....	1,556	1,556
<hr/>		

**7. BAYOU LA BATRE SEAFOOD FESTIVAL:**

(a) Special Services Program .....		1,000
<b>SOURCE OF FUNDS:</b>		
(1) State General Fund .....	1,000	
<hr/>		
Total Bayou La Batre Seafood Festival .....	1,000	1,000
<hr/>		

**8. BEACON HOUSE-JASPER:**

(a) Social Services Program .....		50,000
<b>SOURCE OF FUNDS:</b>		
(1) State General Fund .....	50,000	
<hr/>		
Total Beacon House-Jasper .....	50,000	50,000
<hr/>		

**9. BIG NANCE CREEK WATER MANAGEMENT DISTRICT:**

(a) Water Resource Development Program .....		1,400
<b>SOURCE OF FUNDS:</b>		
(1) State General Fund .....	1,400	
<hr/>		
Total Big Nance Creek Water Management District .....	1,400	1,400
<hr/>		

**10. BIRMINGHAM CHAMBER MUSIC SOCIETY:**

(a) Fine Arts Program .....		1,556
<b>SOURCE OF FUNDS:</b>		
(1) State General Fund .....	1,556	
<hr/>		
Total Birmingham Chamber Music Society .....	1,556	1,556
<hr/>		

**11. BIRMINGHAM FESTIVAL OF ARTS:**

(a) Fine Arts Program .....		15,230
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## SOURCE OF FUNDS:

(1) State General Fund .....	15,230	
	<hr/>	

Total Birmingham Festival of Arts .....	15,230	15,230
	<hr/>	<hr/>

## 12. BIRMINGHAM INTERNATIONAL EDUCATIONAL FILM FESTIVAL:

(a) Fine Arts Program .....		7,500
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## SOURCE OF FUNDS:

(1) State General Fund .....	7,500	
	<hr/>	

Total Birmingham International Educational Film Festival .....	7,500	7,500
	<hr/>	<hr/>

## 13. BLOUNT COUNTY-ONEONTA AGRI-BUSINESS ASSOCIATION-FARMERS' MARKET:

(a) Special Services Program .....		25,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	25,000	
	<hr/>	

Total Blount County-Oneonta Agri-Business Association-Farmers' Market .....	25,000	25,000
	<hr/>	<hr/>

## 14. BLUE AND GRAY ASSOCIATION:

(a) Tourism and Travel Promotion Program .....		5,602
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## SOURCE OF FUNDS:

(1) State General Fund .....	5,602	
	<hr/>	

Total Blue and Gray Association .....	5,602	5,602
	<hr/>	<hr/>

## 15. CHILTON COUNTY HISTORICAL SOCIETY:

(a) Historical Resources Management Program .....		5,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	5,000	
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Total Chilton County Historical Society .....	5,000	5,000
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16. CHILTON COUNTY PEACH  
FESTIVAL:

(a) Tourism and Travel Promotion Program .....		11,250
SOURCE OF FUNDS:		
(1) State General Fund .....	11,250	
Total Chilton County Peach Festival .....	11,250	11,250

17. CHOCCOLOCCO CREEK WATERSHED ASSOCIATION:

(a) Water Resource Development Program .....		2,183
SOURCE OF FUNDS:		
(1) State General Fund .....	2,183	
Total Choccolocco Creek Watershed Association .....	2,183	2,183

18. CITRONELLE OIL BOWL:

(a) Special Services Program .....		500
SOURCE OF FUNDS:		
(1) State General Fund .....	500	
Total Citronelle Oil Bowl .....	500	500

19. CIVIL AIR PATROL:

(a) Readiness and Recovery Program .....		40,000
SOURCE OF FUNDS:		
(1) State General Fund .....	40,000	
Total Civil Air Patrol .....	40,000	40,000

20. COAL MINING MUSEUM, INC.:

(a) Tourism and Travel Promotion Program .....		25,000
SOURCE OF FUNDS:		
(1) State General Fund .....	25,000	

Total Coal Mining Museum, Inc. ....	25,000	25,000
<b>21. COOSA-ALABAMA RIVER IM- PROVEMENT ASSOCIATION:</b>		
(a) Water Resource Development Program .....		7,784
SOURCE OF FUNDS:		
(1) State General Fund .....	7,784	
Total Coosa-Alabama River Improvement Association .....	7,784	7,784
<b>22. COOSA RIVER ACTION COUN- CIL-GADSDEN:</b>		
(a) Water Resource Development Program .....		6,221
SOURCE OF FUNDS:		
(1) State General Fund .....	6,221	
Total Coosa River Action Council-Gadsden .....	6,221	6,221
<b>23. CULTURE IN BLACK AND WHITE:</b>		
(a) Historical Resources Manage- ment Program .....		1,500
SOURCE OF FUNDS:		
(1) State General Fund .....	1,500	
Total Culture in Black and White .....	1,500	1,500
<b>24. DEEP SEA FISHING RODEO, ALABAMA:</b>		
(a) Tourism and Travel Promotion Program .....		935
SOURCE OF FUNDS:		
(1) State General Fund .....	935	
Total Alabama Deep Sea Fish- ing Rodeo .....	935	935
<b>25. DORSE RECREATIONAL AND</b>		

**EDUCATIONAL CENTER, MARY  
E.:**

(a) Special Services Program .....		3,638
SOURCE OF FUNDS:		
(1) State General Fund .....	3,638	
<hr/>		
Total Mary E. Dorse Recrea- tional and Educational Center .....	3,638	3,638
<hr/>		

**26. DOTHAN LANDMARKS FOUN-  
DATION, INC.:**

(a) Historical Resources Manage- ment Program .....		5,625
SOURCE OF FUNDS:		
(1) State General Fund .....	5,625	
<hr/>		
Total Dothan Landmarks Foundation, Inc. ....	5,625	5,625
<hr/>		

**27. DYNNE CREEK WATERSHED  
CONSERVANCY DISTRICT:**

(a) Water Resource Development Program .....		1,400
SOURCE OF FUNDS:		
(1) State General Fund .....	1,400	
<hr/>		
Total Dynne Creek Watershed Conservancy District .....	1,400	1,400
<hr/>		

**28. ELK RIVER DEVELOPMENT  
AGENCY:**

(a) Water Resource Development Program .....		4,656
SOURCE OF FUNDS:		
(1) State General Fund .....	4,656	
<hr/>		
Total Elk River Development Agency .....	4,656	4,656
<hr/>		

**29. ELYTON RECOVERY CENTER:**

(a) Community Services Program .....		75,000
SOURCE OF FUNDS:		
(1) State General Fund .....	75,000	
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Total Elyton Recovery Center .....	75,000	75,000
<hr/>		

30. ENERGY BOARD, SOUTHERN STATES:

(a) Discovery and Development of Mineral, Energy and Water Resources, Geologic Research and Topographic Mapping Program .....		20,536
SOURCE OF FUNDS:		
(1) State General Fund .....	20,536	
<hr/>		
Total Southern States Energy Board .....	20,536	20,536
<hr/>		

31. FOREST FESTIVAL, ALABAMA:

(a) Executive Administration Program .....		4,610
SOURCE OF FUNDS:		
(1) State General Fund .....	4,610	
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Total Alabama Forest Festival .....	4,610	4,610
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32. GENEVA COUNTY TOMATO FESTIVAL:

(a) Tourism and Travel Promotion Program .....		3,110
SOURCE OF FUNDS:		
(1) State General Fund .....	3,110	
<hr/>		
Total Geneva County Tomato Festival .....	3,110	3,110
<hr/>		

33. GEORGE LINDSEY CELEBRITY BENEFIT, INC.:

(a) Tourism and Travel Promotion Program .....		7,500
SOURCE OF FUNDS:		
(1) State General Fund .....	7,500	
<hr/>		
Total George Lindsey Celebrity Benefit, Inc. ....	7,500	7,500
<hr/>		

34. GULF SHORES TOURIST ASSOCIATION:

(a) Tourism and Travel Promotion Program .....		7,500
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## SOURCE OF FUNDS:

(1) State General Fund .....	7,500	
<hr/>		
Total Gulf Shores Tourist Association .....	7,500	7,500
<hr/>		

## 35. GUNTERSVILLE BOAT RACES:

(a) Tourism and Travel Promotion Program .....		11,068
SOURCE OF FUNDS:		
(1) State General Fund .....	11,068	
<hr/>		
Total Guntersville Boat Races .....	11,068	11,068
<hr/>		

## 36. HANK WILLIAMS MEMORIAL ASSOCIATION-GEORGIANA:

(a) Historical Resources Management Program .....		2,000
SOURCE OF FUNDS:		
(1) State General Fund .....	2,000	
<hr/>		
Total Hank Williams Memorial Association-Georgiana .....	2,000	2,000
<hr/>		

## 37. HANK WILLIAMS MEMORIAL ASSOCIATION-GREENVILLE:

(a) Historical Resources Management Program .....		2,000
SOURCE OF FUNDS:		
(1) State General Fund .....	2,000	
<hr/>		
Total Hank Williams Memorial Association-Greenville .....	2,000	2,000
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## 38. HELEN KELLER PROPERTY BOARD:

(a) Historical Resources Management Program .....		30,000
SOURCE OF FUNDS:		
(1) State General Fund .....	30,000	
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Total Helen Keller Property Board .....	30,000	30,000
<hr/>		

## 39. HIGH TECHNOLOGY ECO-

**NOMIC DEVELOPMENT FOUN-  
DATION, INC.:**

(a) Industrial Development Pro- gram .....		25,000
<b>SOURCE OF FUNDS:</b>		
(1) State General Fund .....	25,000	
	<hr/>	
Total High Technology Eco- nomic Development Founda- tion, Inc. ....	25,000	25,000
	<hr/>	

**40. INTERSTATE MINING COM-  
MISSION:**

(a) Planning Program .....		8,838
<b>SOURCE OF FUNDS:</b>		
(1) State General Fund .....	8,838	
	<hr/>	
Total Interstate Mining Com- mission .....	8,838	8,838
	<hr/>	

**41. JUNIOR MISS PAGEANT, INC.,  
ALABAMA'S:**

(a) Tourism and Travel Promotion Program .....		10,000
<b>SOURCE OF FUNDS:</b>		
(1) State General Fund .....	10,000	
	<hr/>	
Total Alabama's Junior Miss Pageant, Inc. ....	10,000	10,000
	<hr/>	

**42. JUNIOR MISS PAGEANT, INC.,  
AMERICA'S:**

(a) Tourism and Travel Promotion Program .....		40,000
<b>SOURCE OF FUNDS:</b>		
(1) State General Fund .....	40,000	
	<hr/>	
Total America's Junior Miss Pageant, Inc. ....	40,000	40,000
	<hr/>	

**43. KETCHEPEDRAKEE CREEK  
WATERSHED CONSERVANCY  
DISTRICT:**

(a) Water Resource Development Program .....		1,400
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**SOURCE OF FUNDS:**

(1) State General Fund .....	1,400	
<hr/>		
Total Ketchepedrakee Creek Watershed Conservancy Dis- trict .....	1,400	1,400
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**44. LAKE EUFAULA SUMMER  
SPECTACULAR:**

(a) Tourism and Travel Promotion Program .....		5,602
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**SOURCE OF FUNDS:**

(1) State General Fund .....	5,602	
<hr/>		
Total Lake Eufaula Summer Spectacular .....	5,602	5,602
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**45. MOBILE AREA MARDI GRAS  
ASSOCIATION:**

(a) Tourism and Travel Promotion Program .....		2,800
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**SOURCE OF FUNDS:**

(1) State General Fund .....	2,800	
<hr/>		
Total Mobile Area Mardi Gras Association .....	2,800	2,800
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**46. MOBILE CARNIVAL ASSOCIA-  
TION:**

(a) Tourism and Travel Promotion Program .....		2,800
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**SOURCE OF FUNDS:**

(1) State General Fund .....	2,800	
<hr/>		
Total Mobile Carnival Association .....	2,800	2,800
<hr/>		

**47. MOBILE EXPLOREUM-MEDI-  
CAL:**

(a) Educational Museum Services Program .....		21,000
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**SOURCE OF FUNDS:**

(1) State General Fund .....	21,000	
<hr/>		
Total Mobile Exploreum-Med- ical .....	21,000	21,000
<hr/>		

48. MOUNTAIN LAKES ASSOCIATION, ALABAMA:

(a) Tourism and Travel Promotion Program .....		14,306
SOURCE OF FUNDS:		
(1) State General Fund .....	14,306	
Total Mountain Lakes Association, Alabama .....	14,306	14,306

49. PARAMOUNT THEATRE FOR PERFORMING ARTS:

(a) Fine Arts Program .....		2,500
SOURCE OF FUNDS:		
(1) State General Fund .....	2,500	
Total Paramount Theatre For Performing Arts .....	2,500	2,500

50. PEA RIVER HISTORICAL AND GENEALOGICAL SOCIETY:

(a) Historical Resources Management Program .....		3,110
SOURCE OF FUNDS:		
(1) State General Fund .....	3,110	
Total Pea River Historical and Genealogical Society .....	3,110	3,110

51. PEA RIVER WATERSHED CONSERVANCY DISTRICT (Conservation Department) To be used for capital maintenance and improvements at Coffee County Lake:

(a) Water Resource Development Program .....		11,400
SOURCE OF FUNDS:		
(1) State General Fund .....	11,400	
Total Pea River Watershed Conservancy District (Conservation Department) .....	11,400	11,400

52. PEANUT FESTIVAL ASSOCIATION, INC., NATIONAL:

(a) Tourism and Travel Promotion Program .....		8,250
SOURCE OF FUNDS:		
(1) State General Fund .....	8,250	

Total National Peanut Festival Association, Inc. ....	8,250	8,250
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53. PIKE COUNTY PIONEER MUSEUM ASSOCIATION:

(a) Historical Resources Management Program .....		5,000
SOURCE OF FUNDS:		
(1) State General Fund .....	5,000	

Total Pike County Pioneer Museum Association .....	5,000	5,000
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54. RETIRED SENIOR VOLUNTEER PROGRAM-DEPARTMENT OF FINANCE:

(a) Special Services Program .....		315,650
SOURCE OF FUNDS:		
(1) State General Fund .....	315,650	

Total Retired Senior Volunteer Program-Department of Finance .....	315,650	315,650
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The above appropriation to the Retired Senior Volunteer Program shall be distributed in the following manner: \$34,664 to the Foster Grandparent and Senior Companions Programs and \$280,986 to the Retired Senior Volunteer Programs.

55. SENIOR BOWL-MOBILE:

(a) Tourism and Travel Promotion Program .....		40,000
SOURCE OF FUNDS:		
(1) State General Fund .....	40,000	

Total Senior Bowl-Mobile .....	40,000	40,000
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56. SHELBY COUNTY HISTORICAL ASSOCIATION:

(a) Historical Resources Management Program .....		8,750
SOURCE OF FUNDS:		
(1) State General Fund .....	8,750	
Total Shelby County Historical Association .....	8,750	8,750

57. SICKLE CELL EDUCATION PROGRAM:

(a) East Alabama Sickle Cell .....		62,500
(b) Jefferson County Sickle Cell ..		100,000
(c) Southwest Alabama Sickle Cell .....		70,000
SOURCE OF FUNDS:		
(1) State General Fund .....	232,500	
Total Sickle Cell Education Program .....	232,500	232,500

58. SIMPSON-MAY CEREBRAL PALSY CENTER:

(a) Financial Assistance Program ..		35,000
SOURCE OF FUNDS:		
(1) State General Fund .....	35,000	
Total Simpson-May Cerebral Palsy Center .....	35,000	35,000

59. SOUTHERN CENTER FOR INTERNATIONAL STUDIES:

(a) Special Services Program .....		18,750
SOURCE OF FUNDS:		
(1) State General Fund .....	18,750	
Total Southern Center for International Studies .....	18,750	18,750

60. SOUTHERN CHAMPIONSHIP CHARITY HORSESHOW:

(a) Tourism and Travel Promotion Program .....		3,110
SOURCE OF FUNDS:		
(1) State General Fund .....	3,110	

Total Southern Championship Charity Horseshow .....	3,110	3,119
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61. SPIRIT OF AMERICA FESTIVAL,  
INC.:

(a) Tourism and Travel Promotion Program .....		2,801
SOURCE OF FUNDS:		
(1) State General Fund .....	2,801	
Total Spirit of America Festi- val, Inc. ....	2,801	2,801

62. ST. CLAIR COUNTY HISTORI-  
CAL SOCIETY:

(a) Historical Resources Manage- ment Program .....		5,000
SOURCE OF FUNDS:		
(1) State General Fund .....	5,000	
Total St. Clair County Histori- cal Society .....	5,000	5,000

63. STEER SHOW ASSOCIATION,  
ALABAMA STATE:

(a) Agricultural Development Ser- vices Program .....		15,000
SOURCE OF FUNDS:		
(1) State General Fund .....	15,000	
Total Alabama State Steer Show Association .....	15,000	15,000

64. TALLACOOSA HIGHLAND  
LAKES ASSOCIATION:

(a) Tourism and Travel Promotion Program .....		5,602
SOURCE OF FUNDS:		
(1) State General Fund .....	5,602	
Total Tallacoosa Highland Lakes Association .....	5,602	5,602

65. TALLASSEEHATCHIE CREEK

**WATERSHED CONSERVANCY  
DISTRICT:**

(a) Water Resource Development Program .....		1,237
<b>SOURCE OF FUNDS:</b>		
(1) State General Fund .....	1,237	
<hr/>		
Total Tallassee hatchie Creek Watershed Conservancy Dis- trict .....	1,237	1,237
<hr/>		

**66. TENNESSEE RIVER VALLEY  
ASSOCIATION:**

(a) Water Resource Development Program .....		8,708
<b>SOURCE OF FUNDS:</b>		
(1) State General Fund .....	8,708	
<hr/>		
Total Tennessee River Valley Association .....	8,708	8,708
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**67. TENNESSEE VALLEY PUBLIC-  
ITY AND IMPROVEMENT AS-  
SOCIATION:**

(a) Tourism and Travel Promotion Program .....		24,881
<b>SOURCE OF FUNDS:</b>		
(1) State General Fund .....	24,881	
<hr/>		
Total Tennessee Valley Pub- licity and Improvement Asso- ciation .....	24,881	24,881
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**68. TERRAPIN CREEK WATER-  
SHED CONSERVANCY DIS-  
TRICT:**

(a) Water Resource Development Program .....		1,400
<b>SOURCE OF FUNDS:</b>		
(1) State General Fund .....	1,400	
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Total Terrapin Creek Water- shed Conservancy District .....	1,400	1,400
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**69. TRAVEL COUNCIL, ALABAMA:**



(a) Tourism and Travel Promotion Program .....		40,000
SOURCE OF FUNDS:		
(1) State General Fund .....	40,000	

Total Alabama Travel Council .....	40,000	40,000
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**70. TRI-RIVERS WATERWAY DEVELOPMENT ASSOCIATION:**

(1) Water Resource Development Program .....		16,794
SOURCE OF FUNDS:		
(1) State General Fund .....	16,794	

Total Tri-Rivers Waterway Development Association .....	16,794	16,794
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**71. VESTAVIA HILLS DOGWOOD FESTIVAL AND TRAIL:**

(a) Tourism and Travel Promotion Program .....		1,500
SOURCE OF FUNDS:		
(1) State General Fund .....	1,500	

Total Vestavia Hills Dogwood Festival and Trail .....	1,500	1,500
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**72. VETERANS DAY COMMITTEE, NATIONAL:**

(a) Historical Resources Management Program .....		4,358
SOURCE OF FUNDS:		
(1) State General Fund .....	4,358	

Total National Veterans Day Committee .....	4,358	4,358
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**73. VETERANS DAY IN ALABAMA:**

(a) Historical Resources Management Program .....		1,244
SOURCE OF FUNDS:		
(1) State General Fund .....	1,244	

Total Veterans Day in Alabama .....	1,244	1,244
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74. W. C. HANDY PROPERTY  
BOARD:

(a) Historical Resources Management Program .....		15,000
SOURCE OF FUNDS:		
(1) State General Fund .....	15,000	
Total W. C. Handy Property Board .....	15,000	15,000

75. Y.M.C.A. IN MONTGOMERY,  
CLEVELAND AVENUE  
BRANCH:

(a) Special Services Program .....		4,005
SOURCE OF FUNDS:		
(1) State General Fund .....	4,005	
Total Y.M.C.A. in Montgomery, Cleveland Avenue Branch .....	4,005	4,005

76. Y.M.C.A. YOUTH LEGISLATURE:

(a) Special Services Program .....		12,750
SOURCE OF FUNDS:		
(1) State General Fund .....	12,750	
Total Y.M.C.A. Youth Legislature .....	12,750	12,750

77. JESSE OWENS MEMORIAL  
PARK:

(a) Special Services Program .....		12,000
SOURCE OF FUNDS:		
(1) State General Fund .....	12,000	
Total Jesse Owens Memorial Park .....	12,000	12,000

F. DEBT SERVICE FUNDED FROM  
THE STATE GENERAL FUND:

1. General Obligations Capital Improvement Bonds, Series A and B, Estimated .....		1,331,625
SOURCE OF FUNDS:		
(1) State General Fund-Transfer .....	1,331,625	

Total General Obligation Capital Improvement Bonds, Series A and B, Estimated .....		1,331,625	1,331,625
<hr/>			
2. General Obligation Coosa Waterway Bonds, Series A and B, Estimated ..			1,010,298
SOURCE OF FUNDS:			
(1) State General Fund-Transfer .....		1,010,298	
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Total General Obligation Coosa Waterway Bonds, Series A and B, Estimated .....		1,010,298	1,010,298
<hr/>			
3. General Obligation Docks Facilities Bonds, Series A-C, Estimated .....			4,175,900
SOURCE OF FUNDS:			
(1) State General Fund-Transfer .....		4,175,900	
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Total General Obligation Docks Facilities Bonds, Series A-C, Estimated .....		4,175,900	4,175,900
<hr/>			
4. Inland Waterway Improvement Bonds, Series A, Estimated .....			179,428
SOURCE OF FUNDS:			
(1) State General Fund-Transfer .....		179,428	
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Total Inland Waterway Improvement Bonds, Series A, Estimated .....		179,428	179,428
<hr/>			
5. Tennessee-Tombigbee Waterway Bonds, Series A-D, Estimated .....			4,178,473
SOURCE OF FUNDS:			
(1) State General Fund-Transfer Estimated pursuant to Constitutional Amendment No. CCLXX as provided in Act No. 248, 1967 Regular Session .....		4,178,473	
<hr/>			
Total Tennessee-Tombigbee			

Waterway Bonds, Series A-D, Estimated .....	4,178,473	4,178,473
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6. Corrections Institution Bonds, Estimated .....		1,052,250
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**SOURCE OF FUNDS:**

(1) State General Fund- Transfer, Estimated .....	1,052,250	
Pursuant to Constitutional Amendment No. 374 as provided for in Act No. 134, 1978 Second Special Session.		

Total Corrections Institution Bonds, Estimated .....	1,052,250	1,052,250
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7. General Obligation Bonds, 1982, Series A and B, and General Obligation Refunding Bonds, 1983, Series A and B, Estimated .....		55,937,676
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**SOURCE OF FUNDS:**

(1) State General Fund- Transfer, Estimated .....	55,937,676	
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Total General Obligation Bonds, 1982, Series A and B, General Obligation Refunding Bonds, 1983, Series A and B, Estimated .....	55,937,676	55,937,676
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**Section 3.** That, except as may be herein otherwise provided, that amounts herein specifically appropriated shall be in lieu of the amounts heretofore provided or appropriated by law for such purposes. That the amounts herein appropriated are the maximum amounts to be expended for the purposes herein designated and in no event shall the maximum expenditure provided for any items of expense exceed the amount allocated herein except as may be provided for under Sections 5 and 6 of this bill, as provided in the Budget Management Act of 1976, Sections 41-19-1 through 12, Code of Alabama 1975, and those appropriations herein made, except appropriations to the Alabama Alcoholic Beverage Control Board for the purchase of alcoholic beverages, are and shall be subject to the terms, conditions, provisions and limitations of Sections 41-4-80 through 96, Code of Alabama 1975, as amended, and the Budget

Management Act of 1976, Sections 41-19-1 through 12, Code of Alabama 1975.

**Section 4.** That any surplus remaining in any appropriation herein made from the State General Fund to any office, department, bureau, board, commission, or agency may be transferred, on order of the Governor, to any other appropriation herein made from the State General Fund when such appropriation to any office, department, bureau, board, commission, or agency is insufficient to pay salaries in that office, department, bureau, board, commission, or agency.

**Section 5.** In addition to appropriations herein made, all gifts, grants, contributions, appropriations, entitlements or any other funds, in excess of the amount carried in the bill, including grants by the Congress of the United States, municipalities or counties, to any department, division, board, bureau, commission, agency, institution, office or officer of the State of Alabama are hereby appropriated and, in the event the same are recurring, are reappropriated to such department, division, board, bureau, commission, agency, institution, office or officer to be used only for the purpose or purposes for which the grant or contribution was or shall be made. Further, all state, county and educational entities are authorized to disburse such sums as deemed necessary by mutual agreement between said entities and the State of Alabama, Department of Examiners of Public Accounts to partially defray the cost of auditing services performed by said agency. All such sums are hereby appropriated and reappropriated if necessary to the Department of Examiners of Public Accounts for audit services, to be expended through the fund established by Section 41-5-24, Code of Alabama 1975.

**Section 6.** Under the State and Local Fiscal Assistance Act of 1972, as amended, Public Law 92-512, 92nd Congress, any interest earned by the State thereon, together with any accruals or reversions accruing from Revenue Sharing Investments are hereby appropriated for General Government to be spent at the discretion of the Governor.

**Section 7.** All encumbered balances of all prior-year appropriations shall revert to the State Treasury at the end of the 1984-85 Fiscal Year and to the credit of the General Fund or the trust fund from which the appropriation or appropriations were made. Appropriations for the purchase of land or the erection of buildings or new construction (including highway maintenance) shall continue in force until the completion of the work for which such appropriations are made.

**Section 8.** That, if any section, paragraph, sentence, clause,

provision, or portion of the Act or all or any portion of any appropriations herein made be held unconstitutional or invalid, it shall not affect any other section, paragraph, sentence, clause, provision or portion of this Act or any other appropriation or appropriations or portion thereof hereby made not in and of itself unconstitutional or invalid.

**Section 9.** That all laws and parts of laws, general, special, private, or local in conflict with or inconsistent with the provisions of this Act be and the same are hereby expressly repealed.

**Section 10.** That each Department of the State funded through the provisions of this budget shall provide an equal opportunity for employment and business opportunities for all citizens of this state without regard to sex or race.

**Section 11.** That this Act shall become effective October 1, 1984.

Approved May 15, 1984

Time: 4:30 P.M.

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Act No. 84-295

S. 153—Senator Dial

### AN ACT

To permit banks now or hereafter situated in Chambers County to establish, maintain or operate branch banks and branch offices within said county for the conduct of a general banking and trust business; and to repeal conflicting laws.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any bank, whether incorporated or unincorporated, within this state, now or hereafter situated in Chambers County, and where the principal place of business of such bank is situated in said county shall have the power to establish, maintain, and operate within said county, one or more branches, or branch banks, branch offices, branch agencies, additional offices, or branch places of business for the receipt of deposits, payment of checks, lending of money and the conduct of a general banking and trust business, provided that such bank before the establishment of any such branch or branches, shall first secure the written consent thereto of the state superintendent of banks.

**Section 2.** All laws, general, special or local, or parts of laws, in conflict herewith are hereby repealed as to Chambers County.

**Section 3.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 15, 1984

Time: 4:30 P.M.

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Act No. 84-296

S. 175—Senator Ellis

### AN ACT

To amend Section 11-43-3, Code of Alabama 1975, to eliminate the requirement that the city treasurer and the city clerk in municipalities of more than 6,000 inhabitants must be a resident of the city but providing that the council may, by ordinance, require that such officers be residents of the city.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 11-43-3, Code of Alabama 1975, is amended to read as follows:

“§ 11-43-4. Election, etc., of treasurer, clerk, etc., in cities having more than 6,000 inhabitants.

“In cities having a population of more than 6,000, there shall be elected by the council, at its first regular meeting or as soon thereafter as practicable, a city treasurer and a city clerk, who shall hold office until the next general election and until their successors are elected and qualified, and such council may elect an auditor, and any officers whose election is required by ordinance, and, except as otherwise provided, the council shall have authority to fix the terms of office, prescribe their duties and fix the salaries of the officers. The council may, by ordinance, require the city treasurer and the city clerk to be a resident of the city. Such council may by a two-thirds vote of the members elected, by and with the consent of the mayor, consolidate two or more of the offices and may abolish any such offices; provided, that the term of office of no incumbent shall be diminished.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 15, 1984

Time: 4:30 P.M.

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Act No. 84-297

S. 186—Senators Parsons and Strong

## AN ACT

To define and regulate health studio and to provide for criminal penalties.

*Be it Enacted by the Legislature of Alabama:*

**Section 1.** The Legislature finds and declares that there exist in connection with a substantial number of contracts for health studio services certain practices and business and financing methods which have worked undue financial hardship upon some of the citizens of our state, and that existing legal remedies are inadequate to correct existing problems in the industry. The Legislature finds and declares that the health studio industry has a significant impact upon the economy and well-being of the people of the state and that the provisions of this section regulating health studio contracts are necessary for the public welfare.

**Section 2.** For purposes of this section, the following terms shall have the following meanings, unless the context requires otherwise:

(a) "Health studio" means and includes any person, firm, corporation, organization, club, or association engaged in the sale of instruction, training, or assistance in a program of physical exercise or weight reduction, which may include the use of a sauna, whirlpool bath, weight lifting room, massage, steam room, or other exercising or weight reduction machine or device. The term also includes any person, firm, corporation, organization, or association engaged in the sale of the right or privilege to use exercise or weight reduction equipment or facilities, such as a sauna, whirlpool bath, weight lifting room, massage, steam room, or other exercising or weight reduction machine or device. "Health studio" does not include bona fide nonprofit organizations which have been granted tax exempt status by the Internal Revenue Service, including but not limited to, the Young Men's Christian Association, Young Women's Christian Association, or other similar organizations, whose functions as health studios are only incidental to their overall functions and purposes.

(b) "Health studio services" means and includes services, privileges, or rights offered for sale or provided by a "health studio."

(c) "Division" means the Consumer Division of the Office of Attorney General.

**Section 3.** (a) Each person who sells health studio services in this state shall register with the Attorney General's Consumer Protection Division on forms the Division provides. The person shall furnish the full name and address of each business location where health studio services are sold as well as any other registration information the Division deems appropriate.



(b) There shall be one registered agent representing each seller of health studio services in the county where a studio is located and shall serve as a resident agent for receipt of service of process.

(c) The Division may bring an action for mandamus against a health studio to require the club to register or to have and maintain the surety required by this section.

(d) Every health studio which sells contracts for health studio services to be rendered at a planned health studio or a health studio under construction shall purchase a security bond in an amount not less than \$50,000, or shall file with the Division an irrevocable letter of credit by a surety company or lending institution permitted to do business in the state.

(e) A buyer of health studio services who suffers or sustains any loss or damage by reason of breach of contract or bankruptcy by the seller of the health studio services contract may bring an action based on the bond and recover against the surety.

(f) The liability of the surety under any bond may not exceed the aggregate amount of the bond, regardless of the number of amount of claims filed.

(g) If the claims filed should exceed the amount of the bond, the surety shall pay the amount of the bond to the Division for distribution to claimants entitled to restitution and shall be relieved of all liability under the bond.

(h) Any person or business bonded under this section shall maintain accurate records of the bond and of premium payments on it. These records shall be open to inspection by the Division at any time during normal business hours.

**Section 4.** Every contract for the sale of health studio service shall contain the following:

(a) Provisions for the penalty-free cancellation of the contract within 3 days, exclusive of holidays and weekends, of its making, upon the mailing or delivery of written notice to the health studio, and refund upon such notice of all moneys paid under the contract, except that the health studio may retain an amount computed by dividing the number of complete days in the contract's term or, if appropriate, the number of occasions health studio services are to be rendered, into the total contract price and multiplying the result by the number of complete days that have passed since the contract's making or, if appropriate, by the number of occasions that health studio services have been rendered.

(b) Provision for the cancellation of the contract if the health

studio goes out of business and fails to provide facilities within 5 miles or moves its facilities more than 5 miles from the location designated in such contract, upon written notice by the buyer, with refund upon such notice of funds paid or accepted in payment of the contract or in an amount computed by dividing the contract price by the number of weeks of the contract's term and multiplying the result by the number of weeks remaining in the contract's term.

(c) Provision for the cancellation of the contract if the buyer dies or becomes totally and permanently disabled during the membership term following the date of such contract, with refund of funds paid or accepted in payment of the contract in an amount computed by dividing the contract price by the number of weeks of the contract's term and multiplying the result by the number of weeks remaining the contract's term. The contract may require a buyer or the buyer's estate seeking relief under this subsection to provide reasonable proof of total and permanent disability or death.

(d) —Provision that period over which the contract is financed shall not be for a period in excess of 24 months.

(e) —Buyer has the right to rescind this agreement within a thirty day period after the facility becomes fully operational if there has been any misrepresentation concerning the facilities that would be available to said buyer.

(f) —Provision that in the event that buyer moves out of town and there exists no affiliated facility within a 15 mile radius of buyer's new location the contract or membership agreement may be cancelled at buyer's option. On an installment sales contract a pro-rate refund must be available at buyer's option.

**Section 5.** Upon entering into a contract for health studio services, the buyer shall be provided with a written contract, which shall include the name, address, and primary place of business of the health studio. Prior to entering into any such contract, the health studio shall also provide the buyer with a current copy of any rules and regulations applicable to the buyer's use of the health studio.

(a) If a health studio facility is not in existence on the date the health studio contract is executed, the buyer may cancel the contract in the event the facility is not open for business on the date as provided by the contract.

(b) If the buyer cancels under this section, the health studio facility shall refund any deposit, down payment, or payment on the contract.

**Section 6.** The provisions of this section shall not apply to

any contracts for health studio services entered into before the effective date of this act, or to the subsequent renewals of said contracts.

**Section 7.** No right of action or defense arising out of a contract for health studio services which the buyer has against the seller, and which would be cut off by assignment, shall be cut off by assignment of the contract to any third party whether or not he acquires the contract in good faith and for value unless the assignee gives notice of the assignment to the buyer as provided in this section and within 30 days of the mailing of notice receives no written notice of the facts giving rise to the claim or defense of the buyer. A notice of assignment shall be in writing addressed to the buyer at the address shown on the contract and shall identify the contract and inform the buyer that he must, within 30 days of the date of mailing of the notice, notify the assignee in writing of any facts giving rise to a claim or defense which he may have. The notice of assignment shall state the name of the seller and buyer, a description of the services, the contract balance and the number and amount of the installments.

**Section 8.** No contract for health studio services shall require or entail the execution of any note or series of notes by the buyer which when separately negotiated will cut off as to the parties any right of action or defense which the buyer may have against the seller.

**Section 9.** Any contract for health studio services which does not comply with the applicable provisions of this title shall be void and unenforceable as contrary to public policy.

**Section 10.** Supervision and enforcement of the provisions of this Act shall rest with the Attorney General and District Attorneys of the several judicial circuits where such health studios are situated, respectively.

**Section 11.** Violation of this Act shall constitute a Class C felony.

**Section 12.** Provisions of this title are not exclusive and do not relieve the parties or contracts subject thereto from compliance with all other applicable laws.

**Section 13.** Failure to comply with the provisions of this Act is an unfair or deceptive trade practice.

**Section 14.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 15.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 16.** This act shall become effective 90 days after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 15, 1984

Time: 4:30 P.M.

Act No. 84-298

S. 447—Senator Denton

### AN ACT

To amend Section 41-16-51, Code of Alabama 1975, as amended by Act No. 83-515 enacted during the 1983 Regular Session of the Legislature of Alabama, so as to restore the previously existing exemption for equipment used and consumed in the removal and routine operation of any waterworks system, sanitary sewer system, gas or electric system owned by municipalities, counties or public corporations, boards or authorities that are agencies, departments or instrumentalities of municipalities or counties among those contracts for which competitive bidding is not required.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Amendment of Section 41-16-51. Section 41-16-51 of Code of Alabama, 1975, as amended, is further amended to read as follows:

“§ 41-16-51. Contracts for which competitive bidding not required generally; governing bodies or instrumentalities of counties, municipalities and certain state and local institutions to establish and maintain purchasing facilities and procedures for competitive bidding in operation and management of institutions, facilities, etc., under supervision and control thereof; contracts entered into in violation of article void.

(a) Competitive bids shall not be required for utility services, the rates for which are fixed by law, regulation or ordinance, and the competitive bidding requirements of this article shall not apply to:

- (1) The purchase of insurance;
- (2) The purchase of ballots and supplies for conducting any primary, general, special or municipal election;
- (3) Contracts for the securing of services of attorneys, physicians, architects, teachers, superintendents of construction, artists, appraisers, engineers, consultants, certified public accountants, public accountants or other individuals possessing a high degree of professional skill where the personality of the individual pays a decisive part;
- (4) Contracts of employment in the regular civil service;

(5) Contracts for furnishing of fiscal or financial advice or services;

(6) Purchases of products made or manufactured by the blind or visually handicapped under the direction or supervision of the Alabama Institute for Deaf and Blind in accordance with sections 21-2-1 through 21-2-4;

(7) Purchases of maps or photographs from any federal agency;

(8) Purchases of manuscripts, books, maps, pamphlets or periodicals;

(9) The selection of paying agents and trustees for any security issued by a public body;

(10) Existing contracts up for renewal for sanitation or solid waste collection and disposal between municipalities and/or counties, and those providing the service, nor

(11) Contractual services and purchases of commodities for which there is only one vendor or supplier and contractual service and purchases of personal property which by their very nature are impossible of award by competitive bidding.

(b) This article shall not apply to:

(1) Any purchases of products where the price of such products is already regulated and established by state law;

(2) Purchases made by individual schools of the county or municipal public school systems from moneys other than those raised by taxation or received through appropriations from state or county sources;

(3) The purchase, lease, sale, construction, installation, acquisition, improvement, enlargement or expansion of any building or structure or other facility designed or intended for lease or sale by a medical clinic board organized under the provisions 11-58-1 through 11-58-14;

(4) The purchase, lease or other acquisition of machinery, equipment, supplies and other personal property or services by a medical clinic board organized under the provisions of sections 11-58-1 through 11-58-14;

(5) Purchases for public hospitals and nursing homes operated by the governing boards of instrumentalities of the state, counties and municipalities;

(6) Contracts for the purchase, lease, sale, construction, installation, acquisition, improvement, enlargement or extension of any

plant, building, structure or other facility or any machinery, equipment, furniture or furnishings therefor designed or intended for lease or sale for industrial development, other than public utilities, under the provisions of sections 11-54-80 through 11-54-99 or sections 11-54-20 through 11-54-28 or any other statute or amendment or the Constitution of Alabama heretofore or hereafter enacted or adopted authorizing the construction of plants or other facilities for industrial development or for the construction and equipment of buildings for public building authorities under the provisions of section 11-56-1 through 11-56-22;

(7) The purchase of equipment, supplies or materials needed, used and consumed in the normal, and routine operation of any waterworks system, sanitary sewer system, gas system, or electric system, or any two or more thereof, that are owned by municipalities, counties or public corporations, boards or authorities that are agencies, departments or instrumentalities of municipalities or counties and no part of the operating expenses of which system or systems have, during the then current fiscal year, been paid from revenues derived from taxes or from appropriations of the state, a county or a municipality; nor

(8) Purchases made by local housing authorities, organized and existing under Chapter 1, Title 24, from moneys other than those raised by state, county or city taxation or received through appropriations from state, county or city sources.

(c) The said state trade schools, state junior colleges, state colleges and universities under the supervision and control of the state board of education, the city and county boards of education, the district boards of education of independent school districts, the county commissions and the governing bodies of the municipalities of the state shall establish and maintain such purchasing facilities of this article by complying with the requirements for competitive bidding in the operation and management of each such state trade school, state junior college, state college or university under the supervision and control of the state board of education, the city and county boards of education, the district boards of education of independent schools districts, the county commissions and the governing bodies of the municipalities of the state and the governing boards of instrumentalities of counties and municipalities, including waterworks boards, sewer boards, gas boards, and other like utility boards and commissions."

**Section 2. Severability Clause.** In the event any section, section clauses or provision of this Act shall be declared invalid by a court of competent jurisdiction, such action shall not affect the va-

lidity of the remaining sections, sentences, clauses or provisions of this Act which shall continue effective.

**Section 3. Effective Date.** This Act shall become effective upon its approval by the Governor or upon its otherwise becoming law.

Approved May 15, 1984

Time: 4:30 P.M.

Act No. 84-299

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H.J.R. 287—Reps. Martin, Drake, Carter, Parker, Dutton, Venable, Adams, Albright, Bachus, Beers, Biddle, Black, Blake, Blakeney, Boles, Bowling, Box, Brakefield, Britnell, Brooks, Browder, Bryant, Bugg, Burke, Buskey (James), Buskey (John), Butler, Campbell, Carothers, Clark (D), Clark (J), Clark (W), Coburn, Coleman, Cosby, Crow, Davis, Escott, Faulk, Flowers, Ford, Fuller, Gaston, Goodwin, Gray, Grayson, Grouby, Hall, Hammett, Harper, Harvey, Hettinger, Holley, Holmes, Hooper, Horn, Johnson (RG), Johnson (Roy), Junkins, Kennedy, Kvalheim, Laird, Lauderdale, Lindsey, McDowell, McKee, McMillan, McNair, Marietta, Mathis, Melton, Mikell, Mitchell, Moore, Newman, Nicholson, Onderdonk, Payne, Penry, Perdue, Poole, Pratt, Preuitt, Rains, Reed, Rice, Richardson, Rogers, Sasser, Seibels, Smith, Spratt, Starkey, Starr, Tanner, Thomas, Trammell, Turner,

Turnham, Warren, White  
(F), White (G), White (L),  
Zoghby

## HOUSE JOINT RESOLUTION

### MOURNING THE DEATH OF MR. BARRETT CLINTON SHELTON OF DECATUR, ALABAMA.

WHEREAS, the Alabama Legislature expresses an entire state's grief in recording the death of Barrett Clinton Shelton of Decatur, Alabama, on Easter Sunday, April 22, 1984, at the age of 81 years; and

WHEREAS, a native of Tennessee, Mr. Shelton however had been a resident of Decatur since 1911, his early youth, and as he grew in stature, so grew his loyalty and responsible concern for his beloved community; and

WHEREAS, Mr. Shelton was an alumnus of Washington and Lee University and served as editor and publisher of the Decatur Daily for some six decades, assuming management of the family paper following the death of his father in 1923; and

WHEREAS, though a titan among journalists, Mr. Shelton was first and foremost a builder of the Decatur community, a city whose growth was nurtured through this first citizen's staunch support and promotion of mediums of economic prosperity for the area, from TVA to industry location and diversification; and

WHEREAS, the voice of "The Old Man," as he was widely and affectionately known, was heard in forums other than the newspaper page; he spoke from Goat Hill to our Nation's Capitol, before a conference of United Nations and to all who would hear, and perhaps hopefully heed, his championship in cause; and

WHEREAS, Barrett Clinton Shelton was indeed an extraordinary and uncommon man and one whose legacy in death is larger than life; throughout our State and even beyond its bounds, are lives in legion numbers that are better for his having lived; and

WHEREAS, there are those who were touched by his words of encouragement, those who were recipients of his personal financial bounty, and those of course who knew him as both benefactor and friend; he was a man of words but, more than that, was a man of great deeds that have made and left permanent marks throughout our state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in loving memory of a distinguished Alabamian whose accolades were many in life,



we grievously mourn our loss but give thanks that Barrett Clinton Shelton lived among us for a while.

BE IT FURTHER RESOLVED, That in deepest sympathy copies of this resolution shall be forwarded to Mr. Shelton's wife, Mrs. Suzanne Shelton, to his son and daughter, Barrett Shelton, Jr., and Mrs. Suzanne Shirley, and other family members whose sorrow also is ours.

Approved May 15, 1984

Time: 4:30 P.M.

Act No. 84-300

H.J.R. 288—Reps. Hooper, Mikell,  
Blakeney, Warren,  
McKee, Starr, Rice,  
Gaston, White (G),  
Butler, Parker,  
Coburn, McMillan,  
Marietta, Cosby,  
Turnham, Seibels,  
Grouby, Gray,  
Kvalheim, Flowers,  
Poole, Beers,  
Richardson

### HOUSE JOINT RESOLUTION

DECLARING MAY 3, 1984, A STATE "DAY OF PRAYER"  
IN ALABAMA.

WHEREAS, the founding fathers of this great nation recognized and acknowledged the need of God's divine guidance and blessing to make America strong and to keep her free; and

WHEREAS, God declares in the Scripture, "If my people, which are called by My Name, shall humble themselves, and pray and seek my face, and turn from their wicked ways; then will I hear from heaven, and will forgive their sin, and heal their land"; and

WHEREAS, May 3, 1984, has been declared the National Day of Prayer; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do hereby declare May 3, 1984, to be a Day of Prayer for the State of Alabama; we further encourage the people of Alabama to recognize and support said date as a State Day of Prayer, and to participate through appropriate local observances throughout Alabama.

Approved May 15, 1984

Time: 4:30 P.M.

Act No. 84-301

H. 81—Reps. Marietta, Buskey (James),  
Kennedy, Onderdonk

### AN ACT

To amend Chapter 7 of Title 32 of the Code of Alabama 1975 commonly known as the Motor Vehicle Safety-Responsibility Act by amending Sections 32-7-5, 32-7-6, 32-7-16 and 32-7-23 thereof so as to increase the amount of property damage which must be sustained to require an accident report to be filed and to provide what the term "uninsured motor vehicle" shall include under the uninsured motorist coverage section of the Motor Vehicle Safety-Responsibility Act, increases the amount of payment on judgments necessary to satisfy the requirements of the Motor Vehicle Safety-Responsibility Act, and to increase the minimum amount of liability required under a motor vehicle liability policy under the Motor Vehicle Safety-Responsibility Act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 32-7-5, Code of Alabama 1975, is hereby amended to read as follows:

"§ 32-7-5. The operator of every motor vehicle which is in any manner involved in an accident within this state, in which any person is killed or injured or in which damage to the property of any one person, including himself, in excess of \$250.00 is sustained, shall within 10 days after such accident report the matter in writing to the director. Such report, the form of which shall be prescribed by the director, shall contain only such information as may be necessary to enable the director to determine whether the requirements for the deposit of security under section 32-7-6 are inapplicable by reason of existence of insurance or other exceptions specified in this chapter. The director may rely upon the accuracy of the information unless and until he has reason to believe that the information is erroneous. If such operator is physically incapable of making such report, the owner of the motor vehicle involved in such accident shall, within 10 days after learning of the accident, make such report. The operator or the owner shall furnish such additional relevant information as the director shall require."

**Section 2.** Section 32-7-6, Code of Alabama 1975, is hereby amended to read as follows:

"§ 32-7-6. (a) Security required unless evidence of insurance; when security determined. If 20 days after the receipt of a motor vehicle accident within this state which has resulted in bodily injury or death, or damage to the property of any one person in excess of

\$250.00, the director does not have on file evidence satisfactory to him that the person who would otherwise be required to file security under subsection (b) of this section has been released from liability, or has been finally adjudicated not to be liable, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the director shall determine the amount of security which shall be sufficient in his judgment to satisfy any judgment or judgments for damages resulting from such accident as may be recovered against each operator or owner.

“(b) Suspension—The Director shall, within 60 days after the receipt of such report of a motor vehicle accident, suspend the license of each operator and all registrations of each owner of a motor vehicle in any manner involved in such accident, and if such operator is a nonresident the privilege of operating a motor vehicle within this state, and if such owner is a nonresident the privilege of the use within this state of any motor vehicle owned by him, unless such operator or owner or both shall deposit security in the sum so determined by the director; provided that notice of such suspension shall be sent by the director to such operator and owner not less than 10 days prior to the effective date of such suspension and shall state the amount required as security. Where erroneous information is given the director with respect to the matters set forth in subdivisions (1), (2) or (3) of subsection (c) of this section, he shall take appropriate action as hereinbefore provided within 60 days after receipt of him of correct information with respect to said matters.

“(c) Exception—This section shall not apply under the conditions stated in Section 32-7-7 nor:

“(1) to such operator or owner if such owner had in effect at the time of such accident an automobile liability policy with respect to the motor vehicle involved in such accident;

“(2) to such operator, if not the owner of such motor vehicle, if there was in effect at the time of such accident an automobile liability policy or bond with respect to his operation of motor vehicles not owned by him;

“(3) to such operator or owner if the liability of such operator or owner for damages resulting from such accident is, in the judgment of the director, covered by any other form of liability insurance policy or bond; and

“(4) to any person qualifying as a self-insurer under section 32-7-34, or to any person operating a motor vehicle for such self-insurer.

"No such policy or bond shall be effective under this section unless issued by an insurance company or surety company authorized to do business in this state; except, that if such motor vehicle was not registered in this state, or was a motor vehicle which was registered elsewhere than in this state at the effective date of the policy or bond, or the most recent renewal thereof, such policy or bond shall not be effective under this section unless the insurance company or surety company, if not authorized to do business in this state, shall execute a power of attorney authorizing the director to accept service on its behalf of notice or process in any action upon such policy or bond arising out of such accident; provided, that every such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than \$20,000.00 because of bodily injury to or death of one person in any one accident and subject to said limit for one person, to a limit or not less than \$40,000.00 because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of not less than \$10,000.00 because of injury to or destruction of property of others in any one accident."

**Section 3.** Section 32-7-16, Code of Alabama 1975, is hereby amended to read as follows:

"§ 32-7-16. Judgments herein referred to shall, for the purpose of this chapter only, be deemed satisfied:

"(1) when \$20,000.00 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident;

"(2) when, subject to such limit of \$20,000.00 because of bodily injury to or death of one person, the sum of \$40,000.00 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or

"(3) when \$10,000.00 has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident.

"Payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this section."

**Section 4.** Section 32-7-23, Code of Alabama 1975, is hereby amended to read as follows:

"§ 32-7-23. (a) No automobile liability or motor vehicle liabil-

ity policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance or use of a motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto, in limits for bodily injury or death set forth in subsection (c) of section 32-7-6, under provisions approved by the commissioner of insurance for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness or disease, including death, resulting therefrom; provided, that the named insured shall have the right to reject such coverage in writing, such coverage need not be provided in or supplemental to a renewal policy where the named insured had rejected the coverage in connection with the policy previously issued to him by the same insurer.

“(b) The term “uninsured motor vehicle” shall include, but is not limited to, motor vehicles with respect to which: (1) neither the owner nor the operator carries bodily injury liability insurance; (2) any applicable policy liability limits for bodily injury are below the minimum required under section 32-7-6; (3) the insurer becomes insolvent after the policy is issued so there is no insurance applicable to, or at the time of, the accident; (4) the sum of the limits of liability under all bodily injury liability bonds and insurance policies available to an injured person after an accident is less than the damages which the injured person is legally entitled to recover.”

“(c) The recovery by an injured person under the uninsured provisions of any one contract of automobile insurance shall be limited to the primary coverage plus such additional coverage as may be provided for additional vehicles, but not to exceed two additional coverages within such contract.”

**Section 5.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** All laws or parts of laws which conflict with this act are hereby repealed. Nothing in this act should be construed to abrogate the exclusions, terms, conditions or other provisions of any policy of automobile liability insurance which has been approved by the Insurance Commissioner.

**Section 7.** This act shall become effective January 1, 1985 upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 15, 1984

Time: 4:30 P.M.

Act No. 84-302

S.J.R. 213—Senators Little, Aldridge, Amari, Bailey, Barron, Bedford, Bedsole, Bennett, Bishop, Cabaniss, Cooley, Corbett, Covington, deGraffenried, Denton, Dial, Dixon, Drinkard, Ellis, Figures, Foshee, Goodwin, Hand, Hilliard, Holmes, Langford, Menton, Mitchem, Parsons, Pearson, Sanders, Smith (B), Smith (J), Strong and Teague

# SENATE JOINT RESOLUTION

## EXPRESSING THE LEGISLATURE'S APPRECIATION TO THE AUBURN UNIVERSITY STUDENT BODY.

WHEREAS, the Alabama Legislature extends deep and sincere appreciation to the Auburn University student body for their gracious hospitality; and

WHEREAS, on Thursday, April 26, 1984, the generosity of our hosts was expressed through a bountiful barbeque luncheon, with all the trimmings, served on the Capitol grounds; and

WHEREAS, legislators and members of their staffs also were greeted by Aubie the Tiger and were superbly entertained by the Auburn University Singers; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in appreciation for their kind generosity and thoughtfulness, we hereby express heartfelt "thanks" to the Student Body of Auburn University and direct that a copy of this resolution, tendered in gratitude, be forwarded to Auburn University.

Approved May 15, 1984

Time: 4:30 P.M.

Act No. 84-303

S.J.R. 219—Senator Ellis

## SENATE JOINT RESOLUTION

MOURNING THE DEATH OF MR. L. HOLLAND FLOYD  
OF MONTEVALLO, ALABAMA.

WHEREAS, it is with deep sadness and regret that the Legislature of Alabama records the untimely death of Mr. L. Holland Floyd of Montevallo, Alabama, on February 10, 1984, at the early age of just 42 years; and

WHEREAS, Mr. Floyd, a native of Scottsboro, Alabama, and a 1964 graduate of the University of Alabama with the B.S. degree, had been associated with the University of Montevallo for some ten years at his death, serving as executive director of Buildings and Grounds; and

WHEREAS, in addition to the many responsibilities related to his position at the University, Mr. Holland willingly assumed innumerable others such as the dominant role he played in securing a \$3.4 million low-interest loan from the U.S. Department of Education for renovation and expansion of campus facilities; and

WHEREAS, Mr. Floyd, in keeping with his singular abilities, also is credited with having raised more outside funds for the University of Montevallo than any other individual; and

WHEREAS, during his decade of service to UM, Mr. Floyd held a special place in the University community; he was an inspiration to all those privileged to know him, and to those whose lives were touched by his personal acts of care and concern; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Mr. L. Holland Floyd of Montevallo, Alabama, and extend our very deepest sympathy to his wife, Mrs. Vera E. Floyd; his daughter and son, Deana and Drew; his other family members; and to the University of Montevallo community whom he faithfully served.

BE IT FURTHER RESOLVED, That copies of this resolution be forwarded to Mr. Floyd's family and to the University of Montevallo that they all may know of our sincerely shared sorrow in their great and grievous loss of a truly compassionate, selfless and gentle man.

Approved May 15, 1984

Time: 4:30 P.M.

Act No. 84-304

S.J.R. 222—Senator Teague

## SENATE JOINT RESOLUTION

EXPRESSING APPRECIATION OF THE LEGISLATURE  
TO CHARLIE AND ALLIE WILSON OF TALLADEGA,  
ALABAMA.

WHEREAS, Charlie and Allie Wilson of Talladega, Alabama, are owners of the Pepsi Cola Company of Talladega which maintains a hospitality suite at the Alabama International Motor Speedway; and

WHEREAS, the Wilsons, on a number of occasions, have hosted many legislators and other friends in the Pepsi Cola Suite during the Winston 500 and Talladega 500 races; and

WHEREAS, it is indeed most generous of Charlie and Allie Wilson to share the Pepsi Cola facilities, and we are indeed grateful both for their friendship and for the thoughtfulness of their hospitality; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein express sincere warm praise of Charlie and Allie Wilson of Talladega for their many acts of kindness which have been extended to include a number of legislators and friends among their guests during the Winston and Talladega 500's.

BE IT FURTHER RESOLVED, That in expression of our sincere personal regard and in gratitude for their friendship, a copy of this resolution shall be forwarded to Charlie and Allie Wilson of Talladega.

Approved May 15, 1984

Time: 4:30 P.M.

Act No. 84-305

S. 537—Senators Foshee and Teague

## AN ACT

To amend Section 32-6-6, Code of Alabama 1975, relating to the contents of a driver's license, so as to provide for a standard sized driver's license and nondriver identification card, to levy an additional fee for the issuance of said standardized license and card and to provide for the disbursement of said money.



*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 32-6-6, Code of Alabama 1975, is hereby amended to read as follows:

“§ 32-6-6.

“Each driver’s license issued by the department of public safety, except temporary permits or other special circumstances as determined by the director of the department of public safety, shall bear thereon a distinguishing number assigned to the licensee and a color photograph of the licensee, the name, birthdate, address and a description of the licensee, who, for the purpose of identification and as a condition precedent to the validity of the license, immediately upon receipt thereof, shall endorse his or her usual or regular signature in ink upon the license in the space provided thereon, unless a facsimile of the licensee’s signature appears thereon.

“Said photo driver’s license and photo nondriver identification card as provided in Section 32-6-4, Code of Alabama 1975, shall have a photo core that meets the minimum width and length dimensions specified in ANSI standards X4.13-1971 and ANSI standard CR80, plus or minus  $\frac{1}{4}$  inch. In addition to all current and existing fees, the public safety department may charge an additional fee to recover the cost of obtaining photo driver’s licenses, photo nondriver identification cards, and terminal support equipment from the supplier. The fee may not exceed ten cents (.10) over the actual cost of obtaining the necessary material from the supplier. Revenues collected under this section shall be used by the department for the sole purpose of this program and any excess shall revert to the general fund at the end of each fiscal year.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 14, 1984

Time: 4:30 P.M.

Act No. 84-306

H. 294—Reps. Biddle, Trammell, Payne,  
Pratt

AN ACT

To amend Section 36-21-2, Code of Alabama 1975, to increase the subsistence allowance paid to any state law enforcement officer of the state of Alabama who is employed by the department of public safety, department of conservation and natural resources, Alabama alcoholic beverage control board, department of agriculture and industries, Alabama Department of Forensic Sciences or the transportation en-

forcement division of the Alabama public service commission from \$5.00 per day to \$8.00 per day.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 36-21-2, Code of Alabama 1975, is hereby amended to read as follows:

“Section 36-21-2. (a) Any state law enforcement officer of the state of Alabama who is employed by the department of public safety, department of conservation and natural resources, Alabama alcoholic beverage control board, department of agriculture and industries, Alabama Department of Forensic Sciences or the transportation enforcement division of the Alabama public service commission shall receive a subsistence allowance of \$8.00 for each working day of a pay period while engaged in the performance of his duties as a law enforcement officer. This allowance shall be in addition to all other compensation, expenses and allowances provided for such officers.

“(b) It is the legislative intent of the legislature that the subsistence allowance provided by this section is to be solely a subsistence expense allowance for the purpose of providing meals while said officers are on duty, and is not to be considered as compensation under the laws of this state. It is the legislative intent that this subsistence allowance shall not be subject to any income or other taxes levied by the state of Alabama or the federal government.”

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 15, 1984

Time: 2:15 P.M.

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Act No. 84-307

H. 61—Reps. Starr, McKee

### AN ACT

Relating to the uniform commercial code; to amend Section 7-9-403, Code of Alabama 1975, to exempt mobile homes from being subject to the limitation of filing a continuation statement five years after filing a financing statement on a perfected security interest.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 7-9-403, Code of Alabama 1975, is hereby amended to read as follows:

“§ 7-9-403. (1) Presentation for filing of a financing statement

and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this article.

“(2) Except as provided in subsection (6), a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five-year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the five-year period, whichever occurs later; but when the five-year period expires before the expiration of the 60-day period, the security interest remains continuously perfected beyond the 60-day period only if a continuation statement is filed before expiration of the five-year period or a new financing statement is filed between the time of expiration of the five-year period and expiration of the 60-day period. Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

“(3) A continuation statement may be filed by the secured party within six months prior to the expiration of the five-year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of section 7-9-405, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it. Microfilm or other photographic records may be removed and destroyed after five years after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation

statement or which are still effective under subsection (6) shall be retained.

“(4) The filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and such trade names as are shown (subsection (7) of section 7-9-402) and shall note in the index the file number and the address of the debtor given in the statement.

“(5) The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement or for a continuation statement shall be \$4.00 for the first page and \$.50 per page for each additional page if the statement is in the standard form prescribed by the secretary of state and an additional \$2.00 for each statement if not in the standard form, plus in each case, if the financing statement is subject to subsection (5) of section 7-9-402, \$1.00. The uniform fee for each name more than one required to be indexed shall be \$1.00. The secured party may at his option show a trade name for any person and an extra uniform indexing fee of \$1.00 shall be paid with respect thereto.

“(6) If the debtor is a utility (subsection (5) of section 7-9-401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subsection (6) of section 7-9-402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate. A financing statement covering a mobile home, other than a mobile home constituting inventory, remains effective, if it so states, until a termination statement is filed.

“(7) When a financing statement covers timber to be cut or crops growing or to be grown, or is filed as a fixture filing, the filing officer shall, in addition to indexing it in the ordinary manner prescribed in subsection (4) of this section, index it in the real estate mortgage records under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, then also under the name of the secured party as if he were the mortgagee thereunder, and where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described.”

**Section 2.** This act shall become effective immediately upon

its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 16, 1984

Time: 4:20 P.M.

Act No. 84-308

H. 410—Rep. Johnson (Roy)

### AN ACT

To amend Section 8-8-5, Code of Alabama 1975, relating to loans or credit sales to which usury laws do not apply, so as to reduce the amount on which interest may be negotiated notwithstanding any other law to the contrary.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 8-8-5, Code of Alabama 1975, is hereby amended to read as follows:

“§ 8-8-5.

“(a) Any person or persons, corporations, trust, general partnership or partnerships, limited partnership or partnerships, or association may agree to pay such rate or rates of interest for the loan or forbearance of money and for any credit sales as such person, corporation, trust, general partnership, limited partnership or association may determine, notwithstanding any law of this state otherwise prescribing or limiting such rate or rates of interest; provided, that the original principal balance of the loan or forbearance of money or credit sales is not less than \$2,000.00; provided further, that all laws relating to unconscionability in consumer transactions including but not limited to the provisions of chapter 19 of Title 5, known as the Mini-Code, shall apply to transactions covered by this section.

(b) As to any such loan or forbearance of money or credit sales made in compliance with subsection (a) of this section, neither such person, corporation, trust, general partnership, limited partnership or association, nor their heirs, successors or assigns, nor any surety, guarantor, endorser or any other person, firm, partnership, association, trust or corporation which may become liable, in whole or in part, for the payment of the debt and interest agreed to be paid thereon in accordance with the term hereof, or any extension, amendment or renewal thereof, may raise or claim the defense or benefit of the usury laws or any other law prescribing, regulating or limiting such rate or rates of interest.

“(c) The term ‘original principal balance,’ as used herein, shall include the total principal amount of indebtedness incurred or con-

tracted for in a loan, forbearance of money, credit sales or in a single issue or sale of bonds, debentures, promissory notes or like transaction, without regard either to the face amount or denomination of any bond, debenture, note or other evidence of indebtedness constituting a part of such issue or sale, or to the amount of the initial or any subsequent advance pursuant to such loan, forbearance or credit sales. The term 'interest' as used herein shall include all direct or indirect charges imposed as an incident to a loan, forbearance of money or credit sales.

“(d) This section shall apply to any person or entity, whether or not organized for profit, and to transactions both prior to and after default, but shall not apply to any agreement involving the loan or forbearance of money or credit sales where the original principal balance is less than \$2,000.00.

“(e) The provisions of this section are cumulative to, and not in derogation of, rights under other provisions of state or federal law and shall not in any way repeal, amend or modify the provisions of Public Law 96-221 enacted by the Congress of the United States and approved March 31, 1980, as amended.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 16, 1984

Time: 4:20 P.M.

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Act No. 84-309

H. 615—Rep. Clark (J)

### AN ACT

To amend §40-25-2, Code of Alabama 1975, so as to levy an additional privilege and license tax on the sale, storage, use, consumption, or delivery of cigarettes within this state; to amend Section 40-25-23 to provide for disposition of the proceeds of the tobacco tax; to provide for consistency in the manner of taxing cigarettes within the State of Alabama; and to repeal Sections 40-25-60, 40-25-61 and 40-25-62, Code of Alabama, 1975.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-25-2, Code of Alabama, 1975, is hereby amended to read as follows:

“§ 40-25-2.

(a) In addition to all other taxes of every kind now imposed by law, every person, firm, corporation, club or association, within the State of Alabama, who sells or stores or receives for the purpose of

distribution to any person, firm, corporation, club or association within the State of Alabama, cigars, cheroots, stogies, cigarettes, smoking tobacco, chewing tobacco, snuff, or any substitute therefor, either or all, shall pay to the State of Alabama for state purposes only a license or privilege tax which shall be measured by and graduated in accordance with the volume of sales of such person, firm, corporation, club or association in Alabama. There is hereby levied license or privilege taxes on articles containing tobacco enumerated in this article in the following amounts:

(1) **LITTLE CIGARS**—Upon all cigars of all descriptions made to tobacco, or any substitute therefor, and weighing not more than three pounds per 1,000, \$.02 for each ten cigars, or fractional part thereof.

(2) **CHEROOTS, STOGIES, CIGARS, ETC.**—Upon cigars of all descriptions made of tobacco, or any substitute therefor, retailing for three and one-third cents each or less, \$1.50 per 1,000.

(3) **CIGARS**—Upon cigars of all descriptions made of tobacco, or any substitute therefor, retailing for more than three and one-third cents each and not more than \$.05 each, \$3.00 per 1,000.00.

(4) **CIGARS**—Upon cigars of all descriptions made of tobacco, or any substitute therefor, retailing for more than \$.05 each and not exceeding \$.08 each, \$4.50 per 1,000.

(5) **CIGARS**—Upon cigars of all descriptions made of tobacco, or any substitute therefor, retailing for more than \$.08 each and not exceeding \$.10 each, \$7.50 per 1,000.

(6) **CIGARS**—Upon cigars of all descriptions made of tobacco, or any substitute therefor, retailing for more than \$.10 and not exceeding \$.20 each, \$15.00 per 1,000.

(7) **CIGARS**—Upon cigars of all descriptions made to tobacco, or any substitute therefor, retailing for more than \$.20 each, \$20.25 per 1,000.

(8) **CIGARETTES**—Upon all cigarettes made of tobacco, or any substitute therefor, 8.25 mills on each such cigarette.

(9) **SMOKING TOBACCO**—Upon all smoking tobacco, including granulated, plug cut, crimp cut, ready rubbed and other kinds and forms of tobacco prepared in such manner as to be suitable for smoking in a pipe or cigarette upon each package: weighing not more than one and one-eighth ounces, tax \$.02; over one and one-eighth ounces, not exceeding two ounces, tax \$.05; over two ounces, not exceeding three ounces, tax \$.08; over three ounces, not exceeding four ounces, tax \$.11; \$.03 additional tax for each ounce or fractional part thereof over four ounces.

(10) **CHEWING TOBACCO**—Upon all chewing tobacco prepared in such manner as to be suitable for chewing only and not suitable for smoking as described and taxed in subdivision (9) of this subsection; three-fourths cent per ounce or fractional part thereof.

(11) **SNUFF**—Upon each can or package of snuff weighing not more than five-eighths ounce, one-half cent tax; over five-eighths ounces and not exceeding one and five-eighths ounces, \$.01 tax; over one and five-eighths ounces and not exceeding two and one-half ounces, \$.02 tax; over two and one-half ounces and not exceeding five ounces (cans, packages, gullets), \$.03 tax; over three ounces and not exceeding five ounces (glasses, tumblers, bottles), three and one-half cents tax; over five ounces and not exceeding six ounces, \$.04 tax; weighing over six ounces, an additional \$.06 for each ounce or fractional part thereof.

(b) Whenever in this article reference is made to any manufactured tobacco products, manufactured or imported to sell at a certain price, as the basis for computing the tax, it is intended to mean the ordinary, customary or usual price paid by the consumer for such tobacco products taxable under this article.

(c) Whenever in this article reference is made to any manufactured tobacco products on which the tax is based on weight, the weight as shown by the manufacturer or the federal internal revenue stamp shall apply.

(d) When the retail or selling price is referred to in this article as the basis for computing the amount of stamps required on any article, it is intended to mean the retail or selling price of the articles before adding the amount of the tax.

(e) When any articles or commodities subject to tax in this article are given as prizes on punch boards, shooting galleries, premiums, etc., the tax shall be based on the ordinary retail selling price of such articles.

(f) The tax herein levied shall be paid to the state through the use of stamps as herein provided. However, every wholesaler, distributor, jobber or retail dealer shall add the amount of the tax levied herein to the price of the tobacco or tobacco products sold, it being the purpose and intent of this provision that the tax levied is in fact a levy on the ultimate consumer or user with the wholesaler, distributor, jobber or retail dealer acting merely as an agent of the state for the collection and payment of the tax to the state. Therefore, notwithstanding any exemptions from taxes which any such seller may now or hereafter enjoy under the Constitution or laws of this or any other state, or of the United States, he shall collect the



tax imposed hereunder from the purchaser or consumer, and the amount of the tax shall constitute a debt from the purchaser or consumer to the seller until paid. It shall be unlawful for any person, firm, corporation, association or copartnership to fail or refuse to add to the sales price and collect from the purchaser the amount of the tax to be added to the sales price and collected from the purchaser hereunder. Stamps in denominations to the amount of the tax or in denominations specified pursuant to subsection (g) of this section shall be affixed to the box or other container from or in which tobacco products taxed by this section are normally sold at retail. The stamps shall be affixed in such a manner that their removal will require continued application of water or steam; and in case of cigars, cheroots, chewing tobacco and like manufactured tobacco products, where sales are made from the original container, the stamps shall be affixed to the box or container in such a way that the stamps shall be torn in two or mutilated when such containers or boxes are opened for the sale of the tobacco products. In the case of cigarettes, smoking tobacco, snuff and like products sold at retail in packages, the required amount of stamps shall be affixed to each individual package or container. All taxable tobaccos herein enumerated, when offered for sale, either at wholesale or retail, without having stamps affixed in the manner set out by this article, shall be subject to confiscation, in the manner provided for contraband goods as set out in this article.

(g) The Commissioner of Revenue shall prepare and issue stamps in denominations for the amount of the tax imposed by this article, provided that if the commissioner determines that it is not economical for the state to have a stamp prepared and issued for one or more particular types of packages of tobacco products, then he may by regulation prescribe the use of a stamp in a denomination other than for the amount of the tax imposed with the difference between the amount of tax actually imposed and the amount of tax denominated by the stamp paid with the use of a monthly report; or he may require a monthly report without use of a stamp to report the amount of taxes due.

**Section 2.** Section 40-25-23, Code of Alabama, 1975, is hereby amended to read as follows:

“§ 40-25-23. Disposition of Proceeds.

All revenues collected under the provisions of this article, except as otherwise provided, shall be paid to the department of revenue by check or draft made payable to the treasurer of Alabama, and shall be distributed in the following manner:

(1) All of the revenue derived from the tax levied upon ciga-

rettes by sections 40-25-2 and 40-25-41 shall be deposited in the state treasury and shall be divided as follows:

a. Six and 6/100th percent (6.06%) to the credit of the state public welfare trust fund, which is hereby appropriated for general welfare purposes. In this section, "general welfare purposes" means:

1. The administration of public assistance as set out in sections 38-2-5 and 38-4-1;

2. Services, including supplementation and supplementary services under the Federal Social Security Act, to or on behalf of persons to whom such public assistance may be given under section 38-4-1;

3. Services to and on behalf of dependant, neglected, or delinquent children; and

4. Investigative and referral services to and on behalf of needy persons.

b. Nine and 9/100th percent (9.09%) shall be set apart and used for the following purposes only and in the following order:

1. So much thereof as may be necessary for such purpose is hereby appropriated and shall be used by the state treasurer to pay at their respective maturities the principal and interest that will mature during the then current fiscal year on all bonds at the time outstanding that may have been issued by the state industrial development authority under the provisions of the following acts:

i. Acts 1967, No. 231;

ii. Acts 1971, No. 1420;

iii. Acts 1973, No. 1039;

iv. Acts 1975, No. 1217;

v. Acts 1978, 2nd Ex. Sess., No. 99;

vi. Acts 1981, No. 81-843; and

vii. Acts 1983, No. 83-925.

2. The balance thereafter remaining during each fiscal year shall be paid into a special fund in the state treasury to be designated the "general and mental health fund," and is hereby appropriated and shall be distributed as follows:

i. Thirty-six percent of said balance shall be expended by the state health officer, with the approval of the state board of health, for salaries, other expenses and equipment purchases, incident to general health work;

ii. Fifty-eight percent of the said balance shall be paid to the Alabama mental health board to be expended by the said board for such purposes as it may designate for the provision of mental health services; and

iii. Six percent of said balance shall be paid to the Alabama mental health board to be expended by said board for such purposes as it may designate for the provision of services to the mentally retarded.

(c) Twelve and 12/100th percent (12.12%) shall be set apart and used for the following purposes only and in the following order:

1. So much thereof as may be necessary for such purpose is hereby appropriated to the purpose of acquiring and constructing mental health facilities in the state, and to that end shall be used by the state treasurer to pay, at their respective maturities, the principal and interest that will mature during the then current fiscal year on whichever of the following may be issued:

i. Any bonds that may be issued by the Alabama mental health building authority under the provisions of law pursuant to which the said authority may be organized; or

ii. Any bonds of the state that may be issued for acquisition and construction of mental health facilities under amendment 266 of the Constitution of Alabama.

2. The balance thereafter remaining during each fiscal year shall be paid into a special fund in the state treasury, designated the "general and mental health fund," and is hereby appropriated and shall be distributed as follows:

i. Thirty percent of said balance shall be expended by the state health officer, with the approval of the state board of health, for salaries, other expenses and equipment purchases incident to general health work; and

ii. Seventy percent of the said balance shall be paid to the Alabama mental health board created in sections 22-50-4 through 22-50-14, and shall be used by the said board for mental health purposes in the state.

d. Six and 6/100th percent (6.06%) shall be set apart and used for the following purposes only and in the following order:

1. So much thereof as may be necessary for such purposes is hereby appropriated and shall be used by the state treasurer to pay, at their respective maturities, the principal and interest that will mature during the then current fiscal year on all bonds that may be issued by the state parks development authority under the provisions of Acts 1967, No. 272, which provided for the creation of said

authority and also provided for the submission of a constitutional amendment to authorize the issuance of general obligation bonds by said authority.

2. The balance thereafter remaining during each fiscal year shall be deposited into a special fund in the state treasury to be designated the "state parks fund" and is hereby appropriated and shall be distributed as follows: Said fund may be expended by the state director of conservation at his discretion and with the approval of the governor for salaries, other expenses, land acquisitions, equipment purchases, capital additions or improvements or other lawful expenses relating to the state division of parks, monuments and historical sites.

e. Thirty-six and 37/100th percent (36.37%) to the credit of the general fund.

f. Thirty and 30/100th percent (30.30%) to the credit of the Alabama special education trust fund.

(2) All of the revenue derived from the tax levied by section 40-25-2 and section 40-25-41 upon tobacco products other than cigarettes shall be deposited in the state treasury to the credit of the Alabama special education trust fund."

**Section 3.** Any excise, license, privilege, or other tax levied on the sale of cigarettes by any county or municipal government within the State of Alabama shall be levied on the basis of a millage rate per cigarette, in a manner similar to the method of specifying the tax levied on cigarettes by section 40-25-2(a)(8), except where such taxing authority has levied a per package tax on cigarettes without any distinction as to the amount of cigarettes per package. This provision does not specify or limit the rate or amount of tax which may be levied on cigarettes by such county or municipal government. This provision is not to be construed as limiting or extending the taxing authority of any county or municipal government but rather this section specifies the manner in which such taxing authority may be exercised by the county or municipal government for the protection of the tax revenues accruing to the state and said county or municipal government, and for the protection of the public welfare, health, peace and morals of the people of this state.

**Section 4.** The provisions of this act shall satisfy in full the contingency set out in Section 4 of Act No. 83-925, 4th Executive Session, 1983, with respect to issuance of certain additional bonds by the State Industrial Development Authority.

**Section 5.** Sections 40-25-60, 40-25-61 and 40-25-62, Code of Alabama, 1975, are hereby repealed.

**Section 6.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 8.** This act shall become effective upon the first day of the second month following the month of passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 16, 1984

Time: 4:20 P.M.

Act No. 84-310

H. 778—Rep. Moore

### AN ACT

To amend Section 34-22-40, Code of Alabama 1975, which establishes the Alabama board of optometry, so as to provide further for the terms of office of the members of said board.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 34-22-40, Code of Alabama 1975, is hereby amended to read as follows:

“34-22-40. In order to accomplish the purposes and to provide for the enforcement of this chapter, there is hereby created the Alabama board of optometry. The board is hereby vested with the authority to carry out the purposes and enforce the provisions of this chapter. On October 10, 1975, the state board of optometry as then constituted shall be abolished, but the members thereof shall serve as members of the Alabama board of optometry created hereby and shall continue to serve until their present terms of appointment expire, as set out below. The Alabama board of optometry shall consist of five persons, and shall be composed as provided herein:

“(a) Five shall be persons licensed to practice optometry in this state, each of whom shall be a resident of this state, who shall have been actively engaged in the practice of optometry for at least five years next preceding the date of their appointment. The term of one member of the board shall expire October 1, 1975, and every fifth year thereafter; the term of one member shall expire October 1, 1976, and every fifth year thereafter; the term of one member shall expire October 1, 1977, and every fifth year thereafter; the term of one member shall expire October 1, 1978, and every fifth year thereafter; and the term of one member shall expire October 1, 1979, and every fifth year thereafter. Each member of the board shall be ap-

pointed by the governor from a list of five names of qualified persons certified to him by the board.

“When the term of any member of the board expires, that person shall continue to serve until his successor is appointed and qualified.

“For the purpose of preparing the list of five names, the board shall conduct an annual meeting at least thirty (30) days prior to October 1 of each year, at which all optometrists licensed to practice and holding a current annual registration certificate pursuant to the provisions of this chapter shall have the right to attend, nominate and vote. The board shall have the authority to regulate and prescribe the place and hour of the meeting, the method of nomination and the manner of voting. Each optometrist in attendance shall have the right to vote for those persons duly nominated, and no cumulative or proxy voting shall be permitted. Each optometrist voting must vote for five nominees in order for his ballot to be valid, and any ballot indicating votes for more or less than five nominees shall be null and void. The five persons receiving the greatest number of votes of those in attendance at the meeting shall be the five persons whose names shall be certified to the governor for appointment to the board, without substitution. In order for a person to withdraw from the list, the person must do so in writing and present it to the secretary of the board prior to the submission of the list to the Governor, after eliminating the person withdrawing from the list, and the list shall be composed solely of those names remaining. At least 30 days prior to said meeting the board shall mail notices to each optometrist licensed to practice and holding a current annual registration certificate pursuant to the provisions of this chapter at the address shown on his current registration notifying each optometrist of the exact date, place and hour of the meeting, the purpose of the meeting and of his right to attend and vote. In the event of a vacancy prior to the next annual meeting, the governor shall fill such vacancy from the remaining names on the list. The governor may remove any member for neglect of duty, incompetency, improper or unprofessional conduct or when his license has been revoked or suspended.

“(b) Effective October 1, 1984, no person may serve more than two consecutive terms on the board. Time served on the board prior to October 1, 1984, shall not count toward this limitation.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 16, 1984

Time: 4:20 P.M.

Act No. 84-311

H. 780—Rep. Smith

### AN ACT

To provide for a supplemental appropriation to the Department of Agriculture and Industries from the Agricultural Fund for the period ending September 30, 1984, in the amount of \$400,000.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1984, there is hereby appropriated to the Department of Agriculture and Industries, out of monies in the Agricultural Fund, the sum of Four Hundred Thousand Dollars (\$400,000) which said appropriation shall be in addition to any and all other funds heretofore or hereafter appropriated.

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 16, 1984

Time: 4:20 P.M.

Act No. 84-312

H. 828—Rep. Starkey

### AN ACT

To make supplemental appropriations from the Public Road and Bridge Fund to the State Highway Department for the fiscal year ending September 30, 1984.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to all other appropriations heretofore or hereafter made, there is hereby appropriated from the Public Road and Bridge Fund for the fiscal year ending September 30, 1984, the following:

- |   |              |
|---|--------------|
| (a) Construction—Federal Aid Program. . . . |              |
| Federal Aid Matching                        | \$ 2,166,000 |
| Federal Aid                                 | 19,492,000   |
| (b) Equipment Purchases—Other               | 1,260,395    |
| (c) State Construction                      | 5,270,495    |
| (d) Operations—Land and Buildings           | 760,000      |

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby specifically repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 16, 1984

Time: 4:20 P.M.

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Act No. 84-313

H. 591—Rep. Coburn

### AN ACT

To repeal Act No. 80-90 of the 1980 Regular Session of the Alabama Legislature; to prohibit any further transfers from the state insurance fund pursuant to Act No. 80-90; and to provide for the transfer back of funds heretofore transferred from the state insurance fund pursuant to Act No. 80-90, by the State Finance Director with approval of the Governor.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Act No. 80-90 of the 1980 Regular Session of the Alabama Legislature (Code of Alabama Section 41-15-10.1) is hereby repealed. No further sums shall be transferred from the state insurance fund pursuant to Act No. 80-90 after the effective date of this Act.

**Section 2.** Such amounts as have heretofore been transferred to the state general fund from the state insurance fund pursuant to Act No. 80-90, or any part thereof, may be transferred back from the state general fund to the state insurance fund, with interest at eight percent per annum, whenever the state finance director, with the approval of the governor, determines that there are sufficient funds in the state general fund.

**Section 3.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 5.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law



Approved May 16, 1984

Time: 4:20 P.M.

Act No. 84-314

S. 426—Senator Little

## AN ACT

To make legislative findings regarding the need to provide additional methods of providing facilities employed in the provision of certain utility services, including water and sewer services, as well as the need for funds to finance such facilities; to define the particular terms used in the subsequent provisions of this act; to provide for and authorize the incorporation by any county or municipality in the state of one or more public corporations and instrumentalities of the state, upon the filing of an application with, and the making of certain determinations by, the governing body of a county or municipality; to provide for and authorize the certificate of incorporation of any such corporation to be amended at any time and from time to time upon the filing of applications with, and the making of certain determinations by, the governing body of such county or municipality; to provide for a board of directors of any such corporation and the election and removal of the members thereof; to authorize any such corporation to acquire, construct, own, lease, make loans with respect to, operate, or enter into contracts for the operation of, facilities, and to provide for the general powers to be exercised by any such corporation and the conditions under which such powers may be exercised; to empower any such corporation to borrow money for its various corporate purposes and in evidence thereof to issue its notes, bonds and other obligations payable solely out of the revenues, receipts, income, funds or other sources specified in the proceedings under which such bonds, notes or other obligations are issued; to authorize any such corporation to pledge its revenues and mortgage or assign its assets as security for its notes, bonds or other obligations; to provide for the issuance of refunding bonds, notes or other obligations by any corporation for the purpose of refunding bonds, notes or other obligations theretofore issued or assumed by it; to provide a method for giving constructive notice of any mortgage, security interest, assignment or pledge created or made by any such corporation; to provide that the notes, bonds or other obligations of any such corporation shall not constitute or create a debt of the state or any county, municipality or other political subdivision or agency thereof; to provide that the notes, bonds and other obligations of any such corporation may be used for the investment of trusts and other fiduciary funds; to exempt from all taxation in the state the property, corporate activities, revenues and income of such corporation, such transaction or actions to which each such corporation is a party or in which it may be involved, and the notes, bonds and all other obligations of each such corporation and the income from such notes, bonds and obligations; to exempt any such corporation from all laws of the state governing usury or prescribing or limiting interest rates; to exempt any such corporation from all laws of the state requiring competitive bids for contracts to be entered into by counties, municipalities or public corporations; to exempt all utility services agreements and other contracts relating to the design, construction, acquisition, financing or operation of facilities financed by a corporation from all laws of the state requiring competitive bids for contracts to be entered into by counties, municipalities or public corporations and all laws relating to the maximum duration of contracts for the sale of personal property and contractual services to counties, municipalities or public corporations; to provide for liberal construction of the provisions of this act; to confer upon any corporation organized under the provisions of this act the power of eminent domain; to exempt any corporation organized under the provisions of this act from state supervision and control; to provide that any county, municipal-

ity or other political subdivision, agency or instrumentality of the state or any county or municipality may aid and cooperate with any such corporation, lend or donate money or perform services for the benefit thereof, and, without the necessity of an election, donate, sell, convey, transfer, lease or grant thereto any property of any kind; to authorize any county, municipality or other political subdivision, agency or instrumentality thereof and the Tannehill Furnace and Foundry Commission to enter into utility services agreements, for a term not exceeding forty (40) years, providing for the provision of utility services to such entity by a provider under circumstances in which the facilities for the provision of such utility services are financed, in whole or in part, by a corporation; to provide that such entity may unconditionally and absolutely obligate itself to make payments pursuant to such utility services agreement irrespective of the performance of the facilities or the delivery of the pertinent utility services; to provide that a utility services agreement may provide that when more than one such entity shall be a party to such a utility services agreement and one such entity shall default in its obligations thereunder, then the other such entity or entities may be obligated to assume the payment obligations of such defaulting entity; to provide legal and equitable remedies for the breach of utility services agreements; to prohibit any city, county or instrumentality of either thereof to enter into any utility services agreement or related agreements for the acquisition, construction, equipment or operation of any facilities unless the same shall have been approved by such entity after a public hearing following public notice; to provide that any such corporation shall be a nonprofit corporation; to provide that any such corporation may, in its discretion, publish a notice of the adoption of a resolution authorizing the issuance of bonds, notes or other obligations by such corporation, and to provide that any action or proceeding questioning the validity of any such bonds, notes or other obligations or instruments securing the same must be commenced within thirty (30) days after the first publication of said notice; to provide for the dissolution of any such corporation and for the vesting of title to its properties; and to provide that the provisions of this act shall be severable.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Legislative findings: It is hereby found and declared as follows:

(a) That the health, safety and welfare of the people of this state require the provision of certain utility services, including water and sewer services;

(b) That it is necessary for the legislature to provide additional methods by which the cities and counties in the state may provide new and improve existing utility services facilities;

(c) That historically a significant portion of the funding of the costs of construction of such utility services facilities has been provided through grants from the United States of America;

(d) That, in recent years, funds available to cities and counties from the United States of America for payment of costs of construction of utility services facilities has been substantially reduced, and it is anticipated that, in coming years, such funds may be further reduced or eliminated;

(e) That the result of the elimination of funding from the United States of America will be to place the entire burden of pay-

ment of costs of constructing and improving utility services facilities solely upon the cities and counties in the state;

(f) That the users of utility services facilities will be forced to pay increased charges in amounts sufficient to enable the cities and counties to provide funds to pay costs of constructing new and improved utility services facilities;

(g) That it may be impossible for cities and counties to raise rates with respect to the use of such utility services facilities to such levels as will provide funds sufficient to enable such cities and counties to pay substantially all of the costs of constructing and improving such utility services facilities;

(h) That the legislatures in other states of the United States of America, including surrounding states, have enacted or are considering legislation making available to cities and counties new and different methods of financing the costs of such utility services facilities, to the end that the entire burden of the loss of funds from the United States of America will not be placed directly on the users of such utility services in the form of substantially increase charges;

(i) That among the alternatives available to cities and counties in the construction of new and improved utility services facilities is the encouragement of private investment in the construction, ownership and operation of utility services facilities;

(j) That to the extent that the provision of utility services facilities in connection with private ownership and operation reduces the cost of service, the people of this state are greatly benefited by lower cost to the users of such utility services facilities;

(k) That to the extent that utility services charges in this state are substantially higher than in surrounding states, the industrial development of the state is adversely affected and the improvement of the quality of the environment of the state impeded.

The legislature, therefore, finds and declares that it is necessary, desirable and in the public interest that additional and alternative methods of providing for the construction and improvement of certain utility services facilities be provided; and that the provisions of this act are in the public interest and promote the health, welfare and safety of the citizens of this state.

**Section 2. Definitions.** The following words and phrases used in this act, and others evidently intended as the equivalent thereof, shall, in the absence of a clear implication herein otherwise, be given the following respective interpretations herein:

“Applicant” means a natural person who files a written applica-

tion with the governing body of any county or municipality in accordance with the provisions of section 3 hereof.

“Authorizing resolution” means a resolution or ordinance adopted by the governing body of any county or municipality in accordance with the provisions of section 3 hereof, that authorizes the incorporation of a corporation.

“Board” means the board of directors of a corporation.

“Bonds” means bonds, notes or other obligations representing an obligation to pay money.

“Corporation” means any public corporation organized pursuant to the provisions of this act.

“Costs” as applied to a facility or any portion thereof, shall include all or any part of the cost of construction, acquisition, alteration, enlargement, extension, reconstruction, improvement and remodeling of a facility, including all lands, structures, real or personal property, rights-of-way, franchises, easements, permits, approvals, licenses and certificates and interests acquired or used for, in connection with or with respect to a facility, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, underwriters’ commissions or discounts, interest prior to, during and following completion of such construction and acquisition, provisions for reserves for both principal and interest and for maintenance, extensions, enlargements, additions and improvements to any facilities then being or theretofore acquired and all other amounts authorized by any corporation to be paid into any special funds from proceeds of bonds issued by the corporation, the cost of architectural, engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing a facility and such other expenses as may be necessary or incident to the construction and acquisition of a facility, the financing of such construction and acquisition and the placing of a facility in operation.

“County” means any county in the state.

“Determining county” means, with respect to a corporation, any county the governing body of which shall have made findings and determinations of fact pertaining to the organization of such corporation in accordance with the provisions of section 3 of this act.

“Determining municipality” means, with respect to a corporation, any municipality the governing body of which shall have made

findings and determinations of fact pertaining to the organization of such corporation, in accordance with the provisions of section 3 of this act.

“Determining subdivision” means, with respect to a corporation, any determining county or determining municipality and, with respect to an instrumentality, the county or municipality or combination thereof whose governing body is empowered to incorporate or otherwise establish such instrumentality.

“Director” means a member of the board of a corporation.

“Eligibility investment” includes (a) any time deposit with, or any certificate of deposit issued by, (i) any bank which is organized under the laws of the United States of America or any state thereof and deposits in which are insured by the Federal Deposit Insurance Corporation or any department, agency or instrumentality of the United States of America that may succeed to the functions of such corporation or (ii) any savings and loan association which is organized under the laws of the United States of America or any state thereof and deposits in which are insured by the Federal Savings and Loan Insurance Corporation or any department, agency or instrumentality of the United States of America that may succeed to the functions of such corporation; (b) any debt securities that are direct, general obligations of the United States of America; (c) any debt securities the payment of the principal of and interest on which is unconditionally guaranteed by the United States of America; (d) any debt securities that are direct, general obligations of any agencies or instrumentalities of the United States of America, including the following: the Export-Import Banks of the United States, the Federal Farm Credit Banks, the Federal Land Banks, the Federal Intermediate Credit Banks, the Banks for Cooperatives, the Federal Home Loan Banks (including any joint obligations of any two or more of the foregoing agencies), the Federal Home Loan Mortgage Corporation (including participation certificates of the last named agency), the Government National Mortgage Association (including participation certificates of the last named agency), the Tennessee Valley Authority, the Federal Reimbursement Bank and the Farmers Home Administration; (e) any debt securities that are direct, general obligations of the Federal National Mortgage Association; (f) prime commercial paper or finance company paper which is rated not less than prime one or the equivalent thereof by Moody’s Investors Service, Inc., or Standard & Poor’s Corporation, or their successors; (g) units of investment in any money market fund which is rated not less favorably than A (or the equivalent thereof) by Moody’s Investors Service, Inc., or Standard & Poor’s Corporation, or their successors; and (h) any debt obligation in which an insur-

ance company organized under the laws of the state may legally invest its money at the time of investment by an authority.

“Facility” means property or collections of property used to provide utility services, including all land, rights-of-way, property rights, franchise rights, buildings and other structures, machinery, equipment, vehicles, furniture, fixtures, reservoirs, wells, intakes, mains, laterals, pipes, aqueducts and all other property, rights, easements and interests necessary or desirable in connection therewith.

“Governing body” means, with respect to a municipality, its city or town council, board of commissioners, or other like governing body exercising the legislative functions of a municipality and, with respect to a county, its county commission or other like governing body exercising the legislative functions of a county and, with respect to an instrumentality or Tannehill Furnace and Foundry Commission, its board of directors or other like governing body duly constituted to exercise the ultimate decision-making functions of such instrumentality or said Tannehill Furnace and Foundry Commission, as the case may be.

“Governmental user” means any county or municipality, or any instrumentality of either thereof (including, without limitation to, any corporation incorporated hereunder) or Tannehill Furnace and Foundry Commission, that receives, participates in or otherwise partakes of utility services pursuant to a utility services agreement.

“Incorporators” means the persons forming a public corporation pursuant to the provisions of this act.

“Instrumentality” means, with respect to any county or municipality, any public corporation, public authority, board, commission or other similar body that is incorporated, established or controlled by such county or municipality.

“Municipality” means an incorporated municipality in the state.

“Person” means any natural person, public or private corporation (including, without limitation to, any corporation incorporated hereunder), partnership, trust, foundation, government or governmental body, political subdivision or other legal entity.

“Provider” means any person that provides utility services to any user pursuant to a utility service agreement.

“Revenues” means all rentals, receipts, income and other charges derived or received or to be derived or received by the corporation, from any of the following: the operation by the corporation of a facility or facilities, or part of either thereof; the sale, including installment sales or conditional sales, lease, sublease, or use or other

disposition of any facility or portion thereof; repayment of any loan with respect to any facility or the operation thereof; contracts, agreements or franchises with respect to a facility (or portion thereof); any gift or grant; proceeds of bonds to the extent of use thereof for payment of principal of, interest or premium, if any, on the bonds is authorized by the corporation; proceeds from any insurance, condemnation or guaranty pertaining to a facility or property mortgaged to secure bonds or pertaining to the financing of a facility; and income and profit from the investment of the proceeds of bonds or of any revenues.

“State” means the state of Alabama.

“Tannehill Furnace and Foundry Commission” means the “Tannehill Furnace and Foundry Commission” created under Article 10 of Chapter 9 of Title 41 of Code of Alabama 1975, as amended.

“Utility services” means any services for (i) the collection, treatment and delivery of water, whether such water is used for human consumption or industrial use, and (ii) the collection, treatment and disposal of sewage, wastewater, industrial effluent or other fluid waste.

“Utility services agreement” means any agreement between or among one or more users and one or more providers, whether such agreement is in the form of a lease, a service contract, a contract of sale or in any other form, pursuant to which a provider or providers shall agree to provide one or more utility services to, or for the benefit of, such user or users under circumstances in which the facilities for the provision of such utility services are financed, in whole or in part, by a corporation.

“User” means any person that receives, participates in or otherwise partakes of utility services pursuant to a utility services agreement, and includes any governmental user.

**Section 3.** Filing of application for incorporation of a corporation; authorization of incorporation by governing body of county or municipality. A public corporation may be organized pursuant to the provisions of this act in any county or municipality. In order to incorporate such a public corporation, any number of natural persons, not less than three, who are duly qualified electors of the determining county or the determining municipality, as in the case may be applicable, shall first file a written application with the governing body of such county or municipality, which application shall:

- (1) Contain a statement that the applicants propose to incorporate a corporation pursuant to the provisions of this act;

(2) State the proposed location of the principal office of the corporation;

(3) State that each of the applicants is a duly qualified elector of the county or the municipality with whose governing body such application is filed; and

(4) Request that the governing body of such county or municipality adopt a resolution declaring that it is wise, expedient, necessary or advisable that the proposed corporation be formed and authorizing the applicants to proceed to form the proposed corporation by the filing for record of a certificate of incorporation in accordance with the provisions of section 4 hereof.

Every such application shall be accompanied by such supporting documents or evidence as the applicants may consider appropriate. As promptly as may be practicable after the filing of the application with it in accordance with the provisions of this section, the governing body of the county or the municipality with which the application was filed shall review the contents of the application, and shall adopt a resolution either denying the application or declaring that it is wise, expedient, necessary or advisable that the proposed corporation be formed and authorizing the applicants to proceed to form the proposed corporation by the filing for record of a certificate of incorporation in accordance with the provisions of section 4 hereof. The governing body with which the application is filed shall also cause a copy of the application to be spread upon or otherwise made a part of the minutes of the meeting of such governing body at which final action upon said application is taken.

**Section 4.** Incorporation procedure: contents execution and filing of certificate of incorporation. (a) Within 40 days following the adoption of an authorizing resolution the applicants shall proceed to incorporate a corporation by filing for record in the office of the judge of probate of the county or one of the counties in which the determining subdivision is located a certificate of incorporation which shall comply in form and substance with the requirements of this section and which shall be in the form and executed in the manner herein provided.

(b) The certificate of incorporate of the corporation shall state:

(1) The names of the persons forming the corporation, and that each of them is a duly qualified elector of the determining subdivision;

(2) The name of the corporation [which shall be "The Governmental Utility Services Corporation of \_\_\_\_\_," with the insertion of the name of the determining subdivision (which name may



include additional wording identifying the region served by the facility), unless the secretary of state shall determine that such name is identical to the name of any other corporation organized under the laws of the state or so nearly similar thereto as to lead to confusion and uncertainty, in which case the incorporators may insert additional identifying words so as to eliminate said duplication or similarity];

(3) The period for the duration of the corporation (if the duration is to be perpetual, subject to the provisions of section 23 hereof, that fact shall be stated);

(4) The name of the determining subdivision together with the date on which the governing body thereof adopted the authorizing resolution;

(5) The location of the principal office of the corporation, which shall be within the boundaries of the determining subdivision;

(6) That the corporation is organized pursuant to the provisions of this act; and

(7) Any other matters relating to the corporation that the incorporators may choose to insert and that are not inconsistent with this act or with the laws of the state.

(c) The certificate of incorporation shall be signed and acknowledged by the incorporators before an officer authorized by the laws of the state to take acknowledgements to deeds. When the certificate of incorporation is filed for record, there shall be attached to it (1) a copy of the application as filed with the governing body of the determining subdivision in accordance with the provisions of section 3 hereof, (2) a certified copy of the authorizing resolution adopted by the governing body of the determining subdivision, and (3) a certificate by the secretary of state that the name proposed for the corporation is not identical to that of any other corporation organized under the laws of the state or so nearly similar thereto as to lead to confusion and uncertainty.

(d) Upon the filing for record of the said certificate of incorporation and the documents required by the preceding sentence to be attached thereto, the corporation shall come into existence and shall constitute a public corporation under the name set forth in said certificate of incorporation. The judge of probate shall thereupon send a notice to the secretary of state that the certificate of incorporation of the corporation has been filed for record.

(e) The authorization of the incorporation of one corporation shall not preclude the authorization by the governing body of any determining subdivision of the incorporation of other such authori-

ties; provided, that such other corporations shall be required to adopt names or designations sufficient to distinguish them from any corporation theretofore incorporated.

**Section 5.** Amendments to certificate of incorporation. The certificate of incorporation of any corporation incorporated under the provisions of this act may at any time and from time to time be amended in the manner provided in this section. The board shall first adopt a resolution proposing an amendment to the certificate of incorporation which shall be set forth in full in the said resolution and which amendment may include any matters which might have been included in the original certificate of incorporation.

After the adoption by the board of a resolution proposing an amendment to the certificate of incorporation of the corporation, the chairman of the board and the secretary of the corporation shall sign and file a written application in the name of and on behalf of the corporation, under its seal, with the governing body of the determining subdivision, requesting such governing body to adopt a resolution approving the proposed amendment, and accompanied by a certified copy of the said resolution adopted by the board proposing the said amendment to the certificate of incorporation, together with such documents in support of the application as the said chairman may consider appropriate. As promptly as may be practicable after the filing of the said application with the governing body of the determining subdivision pursuant to the foregoing provisions of this section, that governing body shall review the said application and shall find and determine whether it is wise, expedient, necessary or advisable for the said amendment to be made. In finding and determining whether it is wise, expedient, necessary or advisable for the said amendment to be made, the said governing body may consider, in conjunction with any other factors it may deem relevant, alternative means of accomplishing any lawful objective or purpose of the said amendment affecting the public interest. If the said governing body finds and determines that it is wise, expedient, necessary or advisable for the said amendment to be made, it shall adopt a resolution declaring that it has reviewed the said application and has found and determined as a matter of fact that it is wise, expedient, necessary or advisable for the said amendment to be made; if the said governing body finds and determines that it is not wise, expedient, necessary or advisable for the said amendment to be made, it shall deny the application. Such governing body shall also cause a copy of the said application and all accompanying documents to be spread upon or otherwise made a part of the minutes of the meeting of said governing body at which final action upon the said application is taken.

Within 40 days following the adoption by the governing body of

the determining subdivision of a resolution finding and determining as a matter of fact that it is wise, expedient, necessary or advisable for said amendment to be made, the chairman of the board of the corporation and the secretary of the corporation shall sign, and file for record in the office of the judge of probate with which the certificate of incorporation of the corporation was originally filed a certificate in the name of and in behalf of the corporation, under its seal, reciting the adoption of said respective resolutions by the board and by the said governing body and setting forth the said proposed amendment. If the proposed amendment provides for a change in the name of the corporation, there shall be filed, together with the certificate required by the immediately preceding sentence, a certificate by the secretary of state showing that the proposed new name of the corporation is not identical to that of any other corporation then in existence and organized under the laws of the state or so nearly similar to that of any other such corporation as to lead to confusion and uncertainty. The judge of probate shall promptly examine each such certificate and shall determine whether it is complete and regular on its face and whether the proposed amendment complies with the provisions of this act. If the judge of probate shall find that each such certificate is complete and regular on its face and that the proposed amendment complies with the provisions of this act, he shall require each such certificate to be recorded in the permanent records maintained in his office. Upon the filing of the aforesaid certificates, the said amendment to the certificate of incorporation shall become effective. If the proposed amendment effects a change in the name of the corporation, the judge of probate shall promptly send a notice to the secretary of state, advising him of such change. No certificate of incorporation of a corporation shall be amended except in the manner provided in this section.

**Section 6.** Board of directors of corporation; election; terms of office; vacancies; qualifications; expenses; impeachment. (a) Each corporation shall be governed by a board of directors. All powers of the corporation shall be exercised by the board or pursuant to its authorization. The board shall consist of three directors who shall be elected by the governing body of the determining subdivision for staggered terms as hereinafter provided. The governing body of the determining subdivision shall specify for which term each director is elected. The initial term of office of one director shall begin immediately upon his election and shall end at 12:01 o'clock, A.M., on January 1 of the first succeeding odd-numbered calendar year following his election. The initial term of office of another director shall begin immediately upon his election and shall end at 12:01 o'clock A.M., on January 1 of the second succeeding odd-numbered calendar year following his election. The initial term of the remaining director shall begin immediately upon his election and shall end at 12:01

o'clock, A.M., on January 1 of the third succeeding odd-numbered calendar year following his election. Thereafter, the term of office of each such director shall be six years. If at any time there should be a vacancy on the board, a successor director to serve for the unexpired term applicable to such vacancy shall be elected by the governing body of the determining subdivision. If the term of office being served by any director shall expire prior to the election of such director for a new term or prior to the election of his successor by the governing body of the determining subdivision, such director shall continue to serve until his successor is elected and qualified, and if such director is elected for a new term after the expiration of the immediately preceding term which he has been serving, his new term of office shall be deemed to have commenced as of the expiration of such immediately preceding term.

(b) Any officer of the determining subdivision shall be eligible for appointment and may serve as a member of the board for the term for which he is appointed or during his tenure as an officer of the determining subdivision, whichever expires first, but he shall not receive a fee for his services; provided, however, that at no time shall the board consist of more than one officer of the determining subdivision. Each director must be a duly qualified elector of the determining subdivision. Directors shall be eligible for re-election. Each director shall be reimbursed for expenses actually incurred by him in and about the performance of his duties. No director shall vote on or participate in the discussion or consideration of any matter coming before the board in which he, his immediate family or any business enterprise with which he is associated has any direct or indirect pecuniary interest; provided, however, that when any such matter is brought before the board, any director having an interest therein which may be in conflict with his obligations as a director shall immediately make a complete disclosure to the board of any direct or indirect pecuniary interest he may have in such matter prior to removing himself and withdrawing from the board's deliberations and vote on the matter presented.

(c) A majority of the directors shall constitute a quorum for the transaction of business. No vacancy in the membership of the board or the voluntary disqualification or abstention of any member thereof shall impair the right of a quorum to exercise all of the powers and duties of the corporation.

(d) Any director of the corporation may be impeached and removed from office in the same manner and on the same grounds provided in section 175 of the Constitution of Alabama, or successor provision thereof, and the general laws of the state for impeachment and removal of the officers mentioned in section 175, or successor provision thereof.

(e) All proceedings of the board shall be reduced to writing by the secretary of the corporation and maintained in the permanent records of the corporation. Copies of such proceedings, when certified by the secretary of the corporation under the seal of the corporation, shall be received in all courts as evidence of the matters therein certified.

**Section 7.** Officers of corporation. The officers of a corporation shall consist of a chairman, a vice-chairman, a secretary, a treasurer and such other officers as its board shall deem necessary or appropriate. The offices of secretary and treasurer may but need not be held by the same person. The chairman and vice-chairman of a corporation shall be elected by the board from the membership thereof; the secretary, the treasurer, and any other officers of the corporation may but need not be members of the board and shall also be elected by the board. The chairman, vice-chairman, secretary and treasurer of the corporation shall also be the chairman, vice-chairman, secretary and treasurer of the board, respectively.

**Section 8.** Powers of corporation; location of facilities of corporation. (a) Every corporation shall have all of the powers necessary and convenient to carry out and effectuate the purposes and provisions of this act, including (without limiting the generality of the foregoing) the following powers:

(1) To have succession in its corporate name for the duration of time (which may be in perpetuity, subject to the provisions of section 22 hereof) specified in its certificate of incorporation;

(2) To sue and be sued in its own name in civil suits and actions and to defend suits against it;

(3) To adopt and make use of a corporate seal and to alter the same at pleasure;

(4) To adopt, alter and repeal bylaws, regulations and rules, not inconsistent with the provisions of this act, for the regulation and conduct of its affairs and business;

(5) To acquire, whether by gift, purchase, transfer, foreclosure, lease or otherwise, to construct and to expand, improve, operate, maintain, equip and furnish one or more facilities, including all real and personal properties that its board may deem necessary in connection therewith, regardless of whether or not any such facility shall then be in existence and, if in existence, regardless of whether or not any such facility is then owned or leased by any person to which such facility may subsequently be sold or leased by such corporation;

(6) To borrow money and to sell and issue bonds as hereinafter provided for any corporate use or purpose;

(7) To lease to any person or persons all or any part of any facility or facilities that are or are to be owned by it, to charge and collect rent therefor and to terminate any such lease upon the failure of the lessee to comply with any of the obligations thereof, all upon such terms and conditions as its board may deem advisable;

(8) To contract to sell, convey or dispose of and to sell, convey or dispose of all or any part of a facility (including but not limited to the granting of options to purchase a facility to any person), all for such consideration and upon such terms and conditions as its board may deem advisable;

(9) In connection with the financing of the acquisition, construction or operation of one or more facilities, to lend, upon such terms and conditions as its board may deem advisable, all or any portion of the proceeds derived from the issuance of its bonds for one or more or any combination of the following purposes:

(a) To enable such person to borrow an amount not substantially in excess of the equity (determined on any basis not resulting in a higher value for any facility in question than the estimated replacement cost or the appraised market value thereof, whichever may be greater) which such person may then have in any facility or facilities;

(b) To enable such person to refinance any outstanding indebtedness incurred or assumed in connection with the acquisition, improvement or operation of any existing facility or facilities;

(c) To enable such person to finance the costs of acquiring, by purchase, construction or otherwise, one or more facilities and/or the costs of expanding or improving one or more facilities, regardless of whether any such facility has theretofore been owned or leased by such person or is to be acquired or leased by such person; and

(d) To enable such person to borrow working capital for use in the operation of one or more facilities.

(10) To pledge for payment of any bonds issued or assumed by the corporation any revenues from which such bonds are payable as herein provided, and to mortgage or pledge any or all of its facilities or any part or parts thereof, whether then owned or received or thereafter acquired or received, and to pledge any revenues from which such bonds are payable as herein provided as security for the payment of the principal of and the interest and premium, if any, on any bonds so issued and any agreements (including, without limitation, any utility service agreements) made in connection therewith;

(11) To assume obligations secured by a lien on or secured by and payable out of or secured by a pledge of any facility or facilities or part thereof or the revenues derived from any facility or facilities that may be acquired by the corporation;

(12) To make, enter into, and execute such contracts, agreements, leases and other instruments (including, without limitation to, utility service agreements) and to take such other actions as may be necessary or convenient to accomplish any purpose for which such corporation was organized or to exercise any power expressly granted hereunder;

(13) To enter into contracts with, to accept aid, loans and grants from, to cooperate with and to do any and all things not specifically prohibited by this act or the Constitution or other applicable laws of the state that may be necessary in order to avail itself to the aid and cooperation of the United States of America, the state or any agency, instrumentality or political subdivision of either thereof in furtherance of the purposes of this act;

(14) To receive and accept from any source aid or contributions in the form of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of this act, subject to any lawful condition upon which such aid or contributions may be given or made;

(15) To appoint, employ and contract with such employees and agents, including but not limited to, architects, engineers, attorneys, accountants, financial experts, fiscal agents and such other advisors, consultants and agents as may in its judgment be necessary or desirable, and to fix their compensation;

(16) To enter into a management contract or contracts with any municipality, any county, or any person or persons for the management, supervision or operation of all or any part of its facilities as may in the judgment of such corporation be necessary or desirable in order to perform more efficiently or economically any function for which it may become responsible in the exercise of the powers conferred upon it by this act.

(17) To procure insurance against any loss in connection with its property and other assets in such amounts and from such insurers as its board may deem desirable;

(18) To the extent permitted by the contracts of such corporation with the holders of its bonds and if not otherwise specifically prohibited by any other provision of this act, to invest its moneys (including, without limitation, the moneys held in any special fund created pursuant to any trust indenture or agreement or resolution

securing any of its bonds and proceeds from the sale of any bonds) not required for immediate use in eligible investments;

(19) To include in any borrowing by such corporation such amounts as may be deemed necessary by its board to pay bond discount, commissions or other financing charges, interest on the obligations issued in evidence of such borrowing for such period as its board shall deem advisable, fees and expenses of financial advisors and planning and management consultants, all legal, accounting, publishing, printing, recording and filing fees and expenses and such other expenses as shall be necessary or incident to such borrowing;

(20) To the extent permitted by its contracts with the holders of its bonds, to purchase bonds of such corporation out of any of its funds or moneys available therefor and to hold, cancel or resell such bonds;

(21) To secure payment of bonds or other obligations of such corporation, including performance obligations relating to processes and facilities involved in providing utility services, by procuring or agreeing to procure (i) insurance or guarantees from the United States of America or any agency or instrumentality thereof, or (ii) insurance, guarantees, letters of credit and other sureties from banks, insurance companies and other financial institutions, and to pay premiums, commissions and fees necessary to procure such insurance, guarantees, letters of credit or other sureties;

(22) To establish and maintain one or more special debt service reserve funds and such other special fund or funds as may be necessary or desirable for its corporate purposes and to pay into each such fund any moneys contributed or granted to such corporation for the purpose of such fund by any governmental or public entity or any private party, any proceeds from the sale of bonds to the extent provided in the resolution adopted by the board of such corporation authorizing the issuance of such bonds and any other moneys which may be made available to such corporation for the purpose of such fund from any other source or sources.

(23) To require payments in lieu of taxes with respect to any facilities to be made by a provider to the state, a county or a municipality, or any two or more thereof; and

(24) To do any and all things necessary or convenient to carry out its purposes and to exercise its powers pursuant to the provisions of this act.

(b) Any facility or facilities of a corporation organized pursuant to determination by a determining municipality may be located within or without or partially within and partially without the determining municipality, subject to the following conditions:



(1) No such facility or part thereof shall be located more than 30 miles from the corporate limits of the determining municipality;

(2) No such facility or part thereof shall be located within the corporate limits of a municipality other than the determining municipality in this state unless the governing body of such other municipality has first adopted a resolution consenting to the location of such facility or part thereof in such municipality; and

(3) No such facility or part thereof shall be located in a county other than that (or those) in which the determining municipality (or part thereof) is situated unless the governing body of such other county has first adopted a resolution consenting to the location of such facility or part thereof in such county.

(c) Any facility or facilities of a corporation organized pursuant to determination by a determining county may be located within or without or partially within and partially without the determining county, subject to the following conditions:

(1) No part of a facility shall be located more than three miles outside the boundaries of the determining county;

(2) In no event shall any facility or part thereof be located within the corporate limits of a municipality unless the governing body of such municipality has first adopted a resolution consenting to the location of such facility or part thereof in such municipality; and

(3) No such project or part thereof shall be located in a county other than the determining county unless the governing body of such other county has first adopted a resolution consenting to the location of a part of such facility in such other county.

**Section 9.** Bonds of corporation—generally. (a) Any corporation shall have the power to issue, sell and deliver at any time and from time to time its bonds in such principal amount or amounts as its board shall determine to be necessary to provide sufficient funds for achieving any of its corporate purposes, including the payment of interest on any of its bonds, the establishment of reserves to secure any such bonds and all other expenditures of such corporation incident to and necessary or convenient to carry out its corporate purposes and powers. Any corporation shall also have the power to issue from time to time bonds to renew bonds and bonds to pay bonds, including interest thereon and, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any other of its corporate purposes.

(b) The bonds issued by any corporation shall be authorized by resolution or resolutions adopted by its board, shall bear such date or dates and shall mature at such time or times as such resolution or resolutions may provide, except that no bond shall mature more than 40 years from date of its issue. The bonds of any corporation may be issued as serial bonds or as term bonds or as a combination thereof. The bonds of any corporation shall bear interest at such rate or rates, be in such form and denominations, either coupon or registered, carry such registration privileges, be executed by such officers of such corporation and in such manner, be payable in such medium of payment, at such place or places within or without the state and be subject to such terms of redemption as may be provided in the resolution or resolutions by which they are authorized to be issued. The bonds of any corporation may be sold by such corporation at public or private sale at such price or prices as such corporation shall determine. If such action shall be deemed advisable by the board, there may be retained in the proceedings under which any of such bonds are authorized to be issued an option to redeem all or any part thereof as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and as may be recited in summary form on the face of such bonds; provided that any bond of any corporation having a specified maturity more than 15 years after its date shall be made subject to redemption at the option of such corporation at the expiration of 15 years from its date and on any interest payment date thereafter at such price or prices and after such notice or notices and on such terms and in such manner as may be provided in the resolution adopted by the board of such corporation authorizing the issuance of such bond. Any corporation may pay all expenses, premiums and commissions which its board may deem necessary and advantageous in connection with the issuance of any of its bonds. Issuance by any corporation of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds, but the resolutions whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for the benefit of any prior issue of bonds, unless in the proceedings authorizing such prior issue the right was reserved to issue subsequent bonds on a parity with such prior issue.

(c) Prior to the preparation of definitive bonds, the corporation may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The corporation may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

(d) All obligations created or assumed and all bonds issued or assumed by any corporation shall be solely and exclusively an obligation of such corporation and shall not create an obligation or debt of the state, the determining subdivision, any other county or, municipality or any other political subdivision of the state or any instrumentality or governmental agency existing under the laws thereof; provided, that the provisions of this subsection shall not be construed to release the original obligor from liability on any bond or other obligation assumed by the corporation.

**Section 10.** Security of bonds; contracts and agreements to secure. (a) Bonds issued by any corporation may, as its board may deem advisable, be either general obligations of such corporation or limited obligations payable only out of certain specified revenues or assets of such corporation; provided, that any corporation may enter into contracts with the holders of any of its bonds preventing such corporation from thereafter issuing general obligation bonds or limiting the amount of such bonds that may thereafter be issued. To the extent permitted by any contracts with the holders of outstanding bonds and any other contractual obligations or requirements, any corporation may pledge any of its revenues or mortgage or assign any of its assets, whether real or personal and whether tangible or intangible, to secure the payment of any of its bonds.

(b) As security for payment of the principal of and the interest and premium, if any, on any bonds issued or assumed by it, any corporation may enter into a contract or contracts, and adopt resolutions or other proceedings containing provisions constituting a part of the contract or contracts with the holders of such bonds, pertaining to, among other things, the following matters:

(1) Pledging all or any part of the revenues of such corporation to secure the payment of such bonds, subject to contracts with the holders of its then outstanding bonds;

(2) Pledging, assigning or mortgaging all or any part of the assets of such corporation to secure the payment of such bonds, subject to contracts with the holders of its then outstanding bonds;

(3) The creation of reserves, sinking funds or other funds and the regulation and disposition thereof;

(4) Limitations on the purpose to which the proceeds of sale of such bonds may be applied and pledging such proceeds to secure the payment of such bonds;

(5) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds;

(6) Binding the corporation to impose and collect reasonable rates for and the imposition of reasonable regulations respecting any service rendered from or with respect to any facility or facilities;

(7) The procedure, if any, by which the terms of any contract with the holders of such bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;

(8) Limitations on the amount of moneys to be expended by such corporation for its operating expenses;

(9) Vesting in a trustee or trustees such property, rights, powers and duties as such corporation may determine;

(10) Defining the acts or omissions to act that shall constitute a default in the performance of the obligations and duties of such corporation to the holders of such bonds and providing for the rights and remedies of such holders in the event of such default; provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and the other provisions of this act; and

(11) Any other matters of like or different character which in any way affect the security or protection of the holders of such bonds.

(c) Any mortgage of property granted by any corporation, any security interest in property created by it or any assignment or pledge of revenues or contract rights made by it, in each case to secure the payment of its bonds, shall be valid and binding from the time when such mortgage is granted, such security interest is created or such assignment or pledge is made, as the case may be, and the property so mortgaged, the property with respect to which such security interest is so created and the revenues and contract rights so assigned or pledged shall immediately (or as soon thereafter as such corporation contains any right thereto or interest therein) be subject to such mortgage, security interest, assignment or pledge, as the case may be, without physical delivery of any property, revenues or contract documents covered thereby or any further act, and the lien of any such mortgage, security interest, assignment or pledge shall be valid and binding as against all persons having claims of any kind in tort, contract or otherwise against such corporation, irrespective of whether such persons have actual notice thereof, from the time notice of such mortgage, security interest, assignment or pledge is filed for record (i) in the office of the judge of probate in which the certificate of incorporation of such corporation was filed for record and (ii) in the case of any mortgage or security interest covering any tangible property, whether real, personal or mixed, in

the office of the judge of probate of the county in which such property is or is to be located pursuant to any agreement made by such corporation with any person respecting the location and use of such property. Such notice shall contain a statement of the existence of any such mortgage, security interest, assignment or pledge, as the case may be, a description of the property, revenues or contract rights subject thereto and a description of the bonds secured thereby, all in terms sufficient to give notice to a reasonably prudent person of the existence and effect of any such mortgage, security interest, assignment or pledge. If the requirements of the preceding sentence are met, such notice may consist of (i) a summary statement prepared specially for the purpose of serving as such notice, (ii) an executed counterpart of any mortgage, security agreement, assignment, trust indenture or any other instrument granting such mortgage, creating such security interest or making such assignment or pledge, as the case may be, or (iii) a certified copy of the resolution adopted by the board of such corporation authorizing such mortgage, security interest, assignment or pledge, as the case may be.

(d) Any corporation shall have power, subject to contracts with the holders of its then outstanding bonds, to purchase for retirement and cancellation any of its bonds and to use any of its available funds for such purpose, provided that, if such bonds are then redeemable, the purchase price thereof shall not exceed the redemption price then applicable, plus accrued interest thereon to the date of purchase, and if such bonds are not then redeemable, the purchase price thereof shall not exceed the redemption price applicable on the earliest date after such purchase upon which such bonds become subject to redemption, plus accrued interest thereon to the date of purchase.

(e) The bonds of any corporation may, at the discretion of such corporation, be issued under and secured by a trust indenture or trust indentures by and between such corporation and a corporate trustee, which may be any trust company or bank having the power of a trust company within or without the state. Any such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of such corporation in relation to the exercise of its corporate powers and the custody, safeguarding and application of all moneys. Such authority may provide by any such trust indenture for the payment to the trustee thereunder or other depository of the proceeds of any bonds issued thereunder and any revenues pledged for the security of such proceeds and revenues, with such safeguards and restrictions as it may determine. All expenses incurred in con-

nection with such trust indenture may be treated as part of the operating expenses of such corporation.

(f) Whether or not the bonds of any corporation are of such form and character as to be negotiable instruments under the terms of the Alabama Uniform Commercial Code, such bonds are hereby made negotiable instruments within the meaning of the Alabama Uniform Commercial Code and for all purposes thereof, subject only to any registration provisions of such bonds. In case any of the directors or officers of any corporation whose signatures appear on any bonds or coupons appertaining to any bond shall cease to be such directors or officers before the delivery of such bonds or coupons, such signatures shall, nevertheless, be valid and sufficient for all purposes to the same extent as if such directors or officers had remained in office until such delivery.

(g) The directors and officers of any corporation shall not be subject to any personal liability by reason of the issuance of any bonds of such corporation.

**Section 11.** Proceeds from sale of bonds. All moneys derived from the sale of any bonds issued by a corporation shall be used solely for the purpose or purposes for which the same are authorized; provided, however, that if for any reason any part of such proceeds shall not be necessary for such purposes, then such unexpended part of such proceeds shall be applied to the payment of the principal or of interest on the said bonds. All accrued interest and premium received in any such sale shall be applied to the payment of interest or principal on the bonds sold.

**Section 12.** Refunding bonds. (a) Any bonds issued or assumed by a corporation may from time to time be refunded by the issuance, by sale or exchange, of refunding bonds payable from the same or different sources for the purpose of paying all or any part of the principal of the bonds to be refunded, any redemption premium required to be paid as a condition to the redemption prior to maturity of any such bonds that are to be so redeemed in connection with such refunding, any accrued and unpaid interest on the bonds to be refunded, any interest to accrue on each bond to be refunded to the date on which it is to be paid, whether at maturity or by redemption prior to maturity, and the expenses incurred in connection with such refunding including, without limitation to, attorneys' fees, costs of printing the refunding bonds, financial advisors' fees and accountants' fees; provided, that unless such bonds are duly called for redemption pursuant to provisions contained therein, the holders of any such bonds then outstanding and proposed to be refunded shall not be compelled without their consent to surrender their outstanding bonds for such refunding. The issuance of such refunding bonds,

the maturities and other details thereof, the rights of the holders thereof and the rights, duties and obligations of such corporation in respect thereof shall be governed by the provisions of this act relating to the issuance of bonds generally, to the extent that such provisions may be appropriate therefor.

(b) Refunding bonds issued by any corporation may be sold or exchanged for outstanding bonds issued under this act and, if sold, the proceeds thereof may be applied, in addition to any other authorized purpose, to the purchase, redemption or payment of such outstanding bonds. Pending the application of the proceeds of any such refunding bonds for any of the purposes provided in this section, such proceeds may be invested in any eligible investments pursuant to an escrow agreement providing for the future application of such proceeds in accordance with such purposes.

**Section 13.** Freedom of corporation from supervision and control of state; applicability of certain laws regarding operation of facilities. (a) This act is intended to aid the state through the furtherance of the purposes of the act by providing appropriate and independent instrumentalities with full and adequate powers to fulfill their functions. Except as expressly provided in this act, no proceeding, notice or approval shall be required for the incorporation of any corporation or the amendment of its certificate of incorporation, the purchase of any note or other instrument secured by a mortgage, deed of trust, note or other or other security interest, the issuance of any bonds, the execution of any mortgage and deed of trust or trust indenture, or the exercise of any other of its powers by a corporation. Neither a public hearing nor the consent of the state department of finance or any other department, agency, bureau, board of corporation of the state shall be prerequisite to the issuance of bonds by a corporation.

(b) Each corporation shall, however, be subject to the provisions of the laws of this state respecting the operation of facilities of the corporation, including particularly the provisions of Chapters 23, 25 and 26 of Title 22 of the Code of Alabama of 1975.

**Section 14.** Power of eminent domain. Each corporation organized under the provisions of this act is hereby granted the power of eminent domain and may exercise such power in the manner provided by law for the purpose of obtaining real property for any facility or part thereof.

**Section 15.** Contacts; cooperation; aid and agreements from other bodies. (a) For the purpose of attaining the objectives of this act, any county, municipality or other political subdivision, public corporation, agency or instrumentality of the state, a county or mu-

municipality may, upon such terms and with or without consideration, as it may determine, do any or all of the following:

- (1) Lend or donate money to any corporation or perform services for the benefit thereof;
- (2) Donate, sell, convey, transfer, lease or grant to any corporation, without the necessity of authorization at any election of qualified voters, any property of any kind; and
- (3) Do any and all things, whether or not specifically authorized in this section, not otherwise prohibited by law, that are necessary or convenient to aid and cooperate with any corporation in attaining the objectives of this act.

(b) Without in any way limiting the generality of the foregoing, any municipality, county or any political subdivision or agency of the state or of a county or municipality, a public corporation or any other entity is authorized to convey to the corporation, and the corporation in turn is authorized to convey to any person, any existing facility, it being hereby specifically declared that the agreement of any person to whom such conveyance is made to provide a facility or facilities that are in full compliance with all such applicable federal and state laws and regulations shall be deemed to be adequate consideration for any such transfer.

**Section 16.** Utility services agreements; incurring indebtedness by governmental users; enforceability of utility services agreements. (a) Any county or municipality, or any instrumentality of either thereof, if authorized by resolution or ordinance of its governing body, may enter into one or more utility services agreements with a provider or providers pursuant to which such provider or providers shall provide one or more utility services for, or for the benefit of, any such governmental user that is a party to such utility services agreement. Any such utility services agreement may provide for the purchase by the governmental user thereunder of all or any part of the capacity, capability or output of the facilities used to provide the applicable utility services. Since the receipt of utility services by a governmental user pursuant to a utility services agreement affords such governmental user the benefits of such utility services without the burdens of ownership and operation of the facilities for the provision of such utility services, and since the payments by such governmental user under such utility services agreement will constitute, in whole or in part, the source of repayment for any financing of the facilities for the provision of such utility services, any utility services agreement may provide (i) that the governmental user thereunder shall be obligated to make the payments required of it by such utility services agreement whether or not the applicable facilities are completed, operable or operating and notwithstanding



the suspension, interruption, interference, reduction or curtailment of the capacity, capability or output, as in the case may be applicable, of such facilities or utility services contracted for, the nonperformance or nondelivery of the utility services contracted for, or the inability, for any reason, of the governmental user to receive or partake of the utility services so contracted for, and (ii) that the payments by the governmental user under such utility services agreement shall not be subject to any reduction, whether by offset or otherwise, and shall not be conditioned upon the performance or nonperformance by the provider or providers under such utility services agreement. Any utility services agreement pursuant to which utility services are to be provided to more than one governmental user may also provide that if one or more such governmental users shall default in the payment of its or their obligations thereunder, then in such event the other governmental user or users that are parties to such utility services agreement shall be required to accept and pay for, and shall be entitled proportionately to and may use or otherwise dispose of, the utility services (or the capacity, capability or output thereof) which was to be received by the defaulting governmental user. Any utility services agreement may provide that the obligation of any governmental user to make payments thereunder in respect of utility services shall be as absolute and unconditional as the obligation of such governmental user to repay money that it borrowed directly on its own credit for the purpose of financing the acquisition of facilities that would be used to provide utility services equivalent to those proposed to be provided pursuant to such utility services agreement. Any utility services agreement may extend for a period not exceeding 40 years from the date that such utility services agreement is entered into.

(b) It is hereby recognized that this act confers upon any governmental user the right to incur payment obligations under a utility services agreement that may constitute debt within the meaning of constitutional limitations and other applicable laws of the state, but, that fact notwithstanding, nothing contained in this act shall be construed

(i) to cause any such debt to lose any exemption from any constitutional debt limit to which, absent any claimed effect of any provision of this act, it would be entitled by virtue of the fact that it was incurred for the purpose of providing waterworks, sewers or sewerage, or

(ii) to prevent any governmental user from entering into a utility services agreement which provides that payments thereunder due in any fiscal year shall be payable only out of the revenues received by such governmental user during such fiscal year.

(c) In the event of any failure or refusal on the part of any governmental user to perform punctually any covenant or obligation contained in any utility services agreement, the provider under such utility services agreement shall have the right (i) to recover damages from such governmental user through an action at law or (ii) to enforce performance by such governmental user of such covenant or obligation through any legal or equitable process, including mandamus or specific performance.

**Section 17. Prior Approval of Utility Services Agreements and Related Agreements with Governmental Users; Notice and Public Hearing.** (a) No utility services agreement or related agreements in connection with the acquisition, construction, equipment or operation of any facilities may be entered into by any governmental user pursuant to the provisions of this act unless the entering into of such utility services agreement and related agreements by such governmental user is approved by resolution adopted by the governing body of such governmental user in accordance with the provisions of this act; and any utility services agreement or related agreements entered into without prior compliance with the provisions of this section shall be void; provided, however, that no public hearing pursuant to the provisions of this section shall be required in connection with the entering into of any utility services agreement by Tanehill Furnace and Foundry Commission.

(b) No approval of any utility services agreement or related agreements by the governing body of any governmental user shall be effective for purposes of this act unless such approval is obtained in compliance with the provisions of this section. Prior to entering into any utility services agreement or related agreements, the governing body of any governmental user shall designate a place, date and time at which such governing body shall meet to consider all views expressed by the general public, whether in support or opposition, with respect to such utility services agreement, the utility services to be provided thereunder or any related agreements for the acquisition, construction, equipment or operation of facilities for provision of such utility services. The date of such meeting to hear the views of the general public shall be not less than three weeks after the date on which notice thereof is first published as hereinafter provided. Notice of such meeting shall be published once a week for three consecutive weeks in some newspaper published within the territorial boundaries of such governmental user in the event that the governmental user is a county or municipality, or within the territorial limits of the pertinent determining subdivision or subdivisions in the event that the governmental user is an instrumentality; provided, however, that if no newspaper is at the time being published within the territorial boundaries of such governmental user,

or such determining subdivision or subdivisions, as in the case may be applicable, such notice shall be published in a newspaper which the governing body of such governmental user determines to have general circulation within the territorial boundaries of such governmental user or such determining subdivision or subdivisions, as in the case may be applicable; provided further that if no newspaper is at the time being published within the territorial boundaries of such governmental user or such determining subdivision or subdivisions, as in the case may be applicable, and if the governing body of such governmental user determines that there is not newspaper at the time having general circulation within the territorial boundaries of such governmental user or such determining subdivision or subdivisions, as in the case may be applicable, then such notice may be published by posting for three weeks in three public places within such territorial boundaries. Such notice shall be deemed to comply with the requirements of this act if it contains (i) a statement of the intention of the governing body of such governmental user to meet at the designated place, date and time for the purpose of hearing and considering the views of the general public with respect to the approval by such governing body of the entering into of the utility services agreement and related agreements in question, (ii) a brief description of such utility services agreement and related agreements and (iii) the proposed street address of the facilities for the provision of the utility services in question or such other description of the proposed location thereof as will be intelligible to the general public.

At the meeting with respect to which such notice is published, the governing body of the governmental user shall hear and consider the views of all persons desiring to be heard and may thereafter at the same meeting adopt a resolution expressing its final approval or disapproval of the entering into such utility services agreement and related agreements. Instead of taking final action with respect to such utility services agreement and related agreements at the first meeting held to hear the views of the general public, such governing body may defer such action to a subsequent meeting, and it may also continue to hear the views of the general public with respect to such utility services agreement and related agreements during one or more subsequent meetings until it takes such final action, but it may not take any final action with respect to the approval or disapproval of such utility services agreement and related agreements, or conduct other hearings with respect thereto, at any subsequent meeting unless (i) such subsequent meeting is a regular meeting of such governing body or a valid adjournment thereof and (ii) the preceding meeting at which such utility services agreement and related agreements were last considered, such subsequent meeting was publicly designated by such governing body as the place, date and time

to which further consideration of such utility services agreement and related agreements was to be continued.

The decision of the governing body of any governmental user to grant or refuse any approval of the entering into of any utility services agreement or related agreements required by the provisions of this act shall be within the sole discretion of such governing body, and, except to the extent affected by fraud, bribery or other unlawful conduct, the reasonableness or fairness of such governing body in approving or refusing to approve the entering into of any such utility services agreement and related agreements shall not be the subject of any case, controversy or inquiry brought before any court of the state.

**Section 18.** Exemption from taxation, etc. (a) Every corporation shall exercise its powers in all respects for the benefit of the people of the state, for their well being and for the improvement of their health, welfare and social condition, and the exemptions from taxation hereinafter described are hereby granted in order to promote the more effective and economical exercise of such powers.

(b) No income, sales, use or other excise or license tax shall be levied upon or collected in the state with respect to any corporate activities of a corporation or any of its revenues, income or profit. No ad valorem tax or assessment for any public improvement shall be levied upon or collected in the state with respect to any property during any time that title to such property is held by a corporation, including, without limiting the generality of the foregoing, any time that such property is leased to a provider by a corporation pursuant to a lease which provides that title to such property shall automatically pass to such provider upon expiration of the lease term or which gives such provider the right to purchase such property from such authority for a nominal consideration and any time that title to such property is retained by a corporation pursuant to a contract of sale with a provider which provides that title to such property shall not pass to such provider until the purchase price thereof has been paid in full; provided that any corporation may require any provider to pay to such corporation or to any county, municipality or the state payments in lieu of any such ad valorem taxes that would be payable with respect to such property but for the application of the provisions of this section.

(c) No privilege or license taxes payable in respect of the recording or filing for record of any mortgage, deed or other instrument, including, without limitation, the privilege taxes now imposed by chapter 22 of Title 40, shall be levied, charged or collected in connection with the recording or filing for record of any mortgage, deed or other instrument evidencing a conveyance to or the creation

of any property interest in a corporation, any agreement or instrument to which a corporation is a party, and any mortgage, deed or other instrument evidencing a conveyance from a corporation to another party or the creation by a corporation of any property interest in another party.

(d) If, pursuant to any contractual agreement between a corporation and a provider, any facility has been or is to be acquired by such corporation and leased or sold to such provider or has been or is to be financed by a loan from such corporation, then in such case the gross proceeds of the sale of any property used in the construction and equipment of such facility, regardless of whether such sale is to such corporation, such provider or any contractor or agent of either thereof, shall be exempt from the sales tax imposed by article 1 of chapter 23 of Title 40 and from all other sales and similar excise taxes now or hereafter levied on or with respect to the gross proceeds of any such sale by the state or any county, municipality or other political subdivision or instrumentality of any thereof. Further, if, pursuant to any contractual arrangement between a corporation and a provider, any facility has been or is to be acquired by such corporation and leased or sold to such provider or has been or is to be financed by a loan from such corporation, then in such case any property used in the construction and equipment of such facility, regardless of whether such property has been purchased by such corporation, such provider or any contractor or agent of either thereof, shall be exempt from the use tax imposed by article 2 of chapter 23 of Title 40 and all other use and similar excise taxes now or hereafter levied on or with respect to any such property by the state or any county, municipality or other political subdivision or instrumentality of any thereof.

(e) All bonds issued by any corporation, their transfer and the income therefrom, including the interest income thereon and any profits made on the sale thereof, shall at all times be free from taxation by the state or any county, municipality or other political subdivision or instrumentality of the state, excepting inheritance, estate and gift taxes.

**Section 19.** Exemption from usury and interest laws. Any corporation and all contracts made by it shall be exempt from the laws of the state of Alabama governing usury or prescribing or limiting interest rates, including, but without limitation to, the provisions of Chapter 8 of Title 8. Further, any payment payable directly or indirectly by any provider pursuant to any lease, installment sale contract, loan agreement or other contract to which a corporation is a party, any payment pursuant to any utility service agreement or any payment pursuant to any other obligation constituting the source of payment for any obligation of a corporation which, in any

such case under the laws of the state in effect at the time, constitutes interest, or a payment in the nature of interest, shall be exempt from all such laws of the state governing usury or prescribing or limiting interest rates.

**Section 20.** Exemption from competitive bid laws. Any corporation and all contracts made by it shall be exempt from the laws of the state requiring competitive bids for any contract to be entered into by counties, municipalities, public corporations or other instrumentalities authorized by them, including, but without limitation to, the provisions of article 3 of chapter 16 of Title 41. Further, all contracts, whether or not involving any corporation as a party thereto, which relate to the design, construction, acquisition, financing or operation of any facilities that are financed, in whole or in part, by any corporation pursuant to the provisions of this act (including, without limitation, utility services agreements and contracts for the design, construction and equipment of such facilities) shall be exempt from (i) such laws requiring competitive bids for any contract to be entered into by counties, municipalities, public corporations or other instrumentalities authorized by them, including, but without limitation to, the provisions of article 3 of chapter 16 of Title 41, and (ii) the laws of the state limiting the duration of any contracts for the purchase of personal property or contractual services by counties, municipalities, public corporations or other instrumentalities authorized by them, including, without limitation to, the provisions of article 3 of chapter 16 of Title 41.

**Section 21.** Disposition of net earnings of corporation. Every corporation shall be a nonprofit public corporation and no part of its net earnings remaining after payment of its expenses shall inure to the benefit of any private person, except that in the event a board shall determine that sufficient provision has been made for the full payment of the expenses, bonds and other obligations of a corporation, then any net earnings of a corporation thereafter accruing shall be paid to its determining subdivision.

**Section 22.** Bonds of corporation as legal investments. The bonds of any corporation shall be legal investments in which the state and its agencies and instrumentalities, all counties, municipalities and other political subdivisions of the state and public corporations organized under the laws thereof, all insurance companies and associations and other persons carrying on an insurance business, all banks, savings banks, savings and loan associations, trust companies, credit unions and investment companies of any kind, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds in their control or belonging to them.

**Section 23.** Dissolution of corporation; vesting of title to corporation's property in determining subdivision. At any time when any corporation has no binds or other obligations outstanding and when there shall be no other obligations assumed by such corporation that are then outstanding, the board of such corporation may adopt a resolution, which shall be duly entered upon its minutes, declaring that the corporation shall be dissolved. Upon filing for record of a certified copy of the said resolution in the office of the judge of probate with which the corporation's certificate of incorporation was filed, the corporation shall thereupon stand dissolved and, in the event it owned any assets or property at the time of its dissolution, the title to all such assets or property shall thereupon vest in the determining subdivision.

**Section 24.** Incorporation of another corporation by same determining subdivision. The formation or dissolution of one or more corporations incorporated under the provisions of this act shall not prevent the subsequent incorporation hereunder of other corporations pursuant to authorization by the same determining subdivision.

**Section 25.** Notice of bond resolution; contest to validity of bonds, etc. (a) Upon the adoption by the board of any corporation of any resolution providing for the issuance of bonds, such corporation may, in the discretion of its board, cause a notice respecting the issuance of such bonds to be published once a week for two consecutive weeks in each county in which shall be located any facility financed or in any way assisted by the issuance of such bonds, such publication in each such county to be in a newspaper having general circulation therein. Such notice shall be in substantially the following form (the blanks being properly filled in), at the end of which shall be printed the name and title of either the chairman or secretary of such corporation: "\_\_\_\_\_, a public corporation and instrumentality of the state of Alabama, on the \_\_\_\_ day of \_\_\_\_\_, authorized the issuance of \$\_\_\_\_\_ principal amount of bonds (or notes or other obligations, as the case may be) of the said public corporation for purposes authorized in the act of the legislature of Alabama under which the said public corporation was organized. Any action or proceeding questioning or contesting the validity of the said bonds (or notes or other obligations), or the instruments securing the same, or the proceedings authorizing the same, must be commenced on or before \_\_\_\_\_ (here insert date determined in accordance with the provisions of subsection (b) of this section)."

(b) The date stated in such notice as the date on or before which any action or proceeding questioning or contesting the validity of the bonds referred to therein must be commenced shall be a date at least 30 days after the date on which occurs the last publica-

tion of such notice necessary for it to have been published at least once in all counties in which it is required to be published. Any action or proceeding in any court to set aside or question the proceedings for the issuance of the bonds referred to in such notice or to contest the validity of any such bonds, or the validity of any instruments securing the same, must be commenced on or before the date determined in accordance with the preceding sentence and stated in such notice as the date on or before which any such action or proceeding must be commenced. After such date no right of action or defense shall be asserted questioning or contesting the validity of such bonds, or the instruments securing the same, or the proceedings authorizing the same, nor shall the validity of such bonds or such instruments or proceedings be open to question in any court on any ground whatsoever, except in an action or proceeding commenced on or before such date.

**Section 26.** Provisions are cumulative. The provisions of this act are cumulative and shall not be deemed to repeal existing laws, except to the extent such laws are clearly inconsistent with provisions of this act.

**Section 27.** Liberal construction. This act shall be construed liberally to effect its purposes and neither this act nor anything herein contained is or shall be construed as a restriction or limitation upon any powers which any corporation might otherwise have under any laws of the state, and the provisions of this act are cumulative to any such powers.

This act does and shall be construed to provide a complete, additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to other laws. However, the issuance of bonds of any corporation under the provisions of this act need not comply with the requirements of any other law of the state generally applicable to the issuance of bonds, notes and other obligations by other public corporations organized under the laws of the state.

**Section 28.** Severability. In the event any section, sentence, clause or portion of this act should be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any of the remaining sections, sentences, clauses or portions of this act, which shall continue effective.

**Section 29.** Effective date of act. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 16, 1984

Time: 4:20 P.M.



Act No. 84-315

H. 483—Rep. Clark (J)

## AN ACT

To amend Section 40-23-4 of the Code of Alabama 1975, as heretofore amended, which provides for certain exemptions from sales taxes, so as to exempt from sales taxation the gross proceeds from sales of admissions to certain national championship sporting events that are held in the State of Alabama and hosted by not for profit corporations organized and existing under the laws of the State of Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-23-4 Code of Alabama 1975 is hereby amended to read as follows:

“§ 40-23-4.

“(a) There are exempted from the provisions of this division and from the computation of the amount of the tax levied, assessed or payable under this division the following:

“(1) The gross proceeds of the sales of lubricating oil and gasoline as defined in sections 40-17-30 and 40-17-170 and the gross proceeds from those sales of lubricating oil destined for out-of-state use which are transacted in a manner whereby an out-of-state purchaser takes delivery of such oil at a distributor's plant within this state and transports it out-of-state, which are otherwise taxed.

“(2) The gross proceeds of the sale, or sales, of fertilizer. The word ‘fertilizer’ shall not be construed to include cottonseed meal, when not in combination with other materials.

“(3) The gross proceeds of the sale, or sales, of seeds for planting purposes and baby chicks and poults. Nothing herein shall be construed to exempt or exclude from the computation of the tax levied, assessed or payable, the gross proceeds of the sale or sales of plants, seedlings, nursery stock or floral products.

“(4) The gross proceeds of sales of insecticides and fungicides and feed for livestock and poultry, but not including prepared food for dogs and cats.

“(5) The gross proceeds of sales of all livestock by whomsoever sold, and also the gross proceeds of poultry and other products of the farm, dairy, grove or garden, when in the original state of production or condition of preparation for sale, when such sale or sales are made by the producer or members of his immediate family or for him by those employed by him to assist in the production thereof. Nothing herein shall be construed to exempt or exclude from the measure or computation of the tax levied, assessed or payable hereunder, the gross proceeds of sales of poultry or poultry products when not products of the farm.

“(6) Cottonseed meal exchanged for cottonseed at or by cotton gins.

“(7) The gross receipts from the business on which, or for engaging in which, a license or privilege tax is levied by or under the provisions of sections 40-21-50, 40-21-53 and 40-21-56 through 40-21-60; provided, that nothing contained in this subdivision shall be construed to exempt or relieve the person or persons operating the business enumerated in said sections from the payments of the tax levied by this division upon or measured by the gross proceeds of sales of any tangible personal property, except gas and water, the gross receipts from the sale of which are the measure of the tax levied by said section 40-21-50, merchandise or other tangible commodities sold at retail by said persons, unless the gross proceeds of sale thereof are otherwise specifically exempted by the provisions of this division.

“(8) The gross proceeds of sales or gross receipts of or by any person, firm or corporation, from the sale of transportation, gas, water or electricity, of the kinds and natures, the rates and charges for which, when sold by public utilities, are customarily fixed and determined by the public service commission of Alabama or like regulatory bodies.

“(9) The gross proceeds of the sale, or sales of wood residue, coal or coke to manufacturers, electric power companies and transportation companies for use or consumption in the production of by-products, or the generation of heat or power used in manufacturing tangible personal property for sale, for the generation of electric power or energy for use in manufacturing tangible personal property for sale or for resale, or for the generation of motive power for transportation.

“(10) The gross proceeds from the sale or sales of fuel and supplies for use or consumption aboard ships and towing vessels plying the high seas of gulf intracoastal waterway either in intercoastal trade between ports in the state of Alabama and ports in other states of the United States or its possessions or in foreign commerce between ports in the state of Alabama and ports in foreign countries; provided, that nothing in this division shall be construed to exempt or exclude from the measure of the tax herein levied the gross proceeds of sale or sales of material and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, barges, ships and other watercraft of 50 tons burden or less.

“(11) The gross proceeds of sales of tangible personal property to the state of Alabama, to the counties within the state and to incorporated municipalities of the state of Alabama.

“(12) The gross proceeds of the sale or sales of railroad cars, and vessels and barges of more than 50 tons burden, when sold by the manufacturers and builders thereof.

“(13) The gross proceeds of the sale or sales of materials, equipment, and machinery which enter into and become a component part of ships, vessels or barges of more than 50 tons burden, constructed or built within this state.

“(14) The gross proceeds of the sale or sales of fuel oil purchased as fuel for kiln use in manufacturing establishments.

“(15) The gross proceeds of the sale or sales of tangible personal property to county and city school boards, independent school boards and all educational institutions and agencies of the state of Alabama, the counties within the state or any incorporated municipalities of the state of Alabama.

“(16) The gross proceeds from the sale of all devices or facilities, and all identifiable components thereof or materials for the use therein, acquired primarily for the control, reduction or elimination of air or water pollution and the gross proceeds from the sale of all identifiable components of or materials used or intended for use in structures built primarily for the control, reduction or elimination of air and water pollution.

“(17) The gross proceeds of sales of tangible personal property or the gross receipts of any business which the state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this state.

“(18) The gross proceeds of sales amounting to \$1,000.00 a month or less from small stores or vending stands operated by blind persons, as defined in section 1-1-3, provided, that such small business establishment shall be the property of the blind operator or of the business enterprise program for the blind, sponsored jointly by the state department of education and the Alabama institute for the deaf and blind, that the operator shall have filed an application for exemption as required in this subdivision and that the blind operator shall have been for a period of two years next preceding the filing of his application for this exemption a bona fide resident of the state of Alabama.

“Any persons claiming an exemption hereunder shall file with the commissioner of revenue an application therefor in the form prescribed by the commissioner of revenue, accompanied by a vision certificate from a regularly licensed physician or ophthalmologist.

“Any person who procures a license under the provisions of this subdivision and permits any other person, firm or corporation to en-

gage in or conduct business under this license shall be guilty of a misdemeanor and shall be punished as provided by law; and any person, firm or corporation, not entitled to an exemption hereunder, who engages in or conducts business under a license issued to a blind person under the provisions of this subdivision shall be guilty of a misdemeanor and shall be punished as provided by law.

“(19) When dealers or distributors use parts taken from stocks owned by them in making repairs without charge for such parts to the owner of the property repaired pursuant to warranty agreements entered into by manufacturers, such use shall not constitute taxable sales to the manufacturers, distributors or to the dealers, under this division or under any county sales tax law.

“(20) The gross proceeds received from the sale or furnishing of food, including potato chips, candy, fruit and similar items, soft drinks, tobacco products and stationery and other similar or related articles by hospital canteens operated by Alabama state hospitals at Bryce hospital and Partlow state school for mental deficient at Tuscaloosa, Alabama, and Searcy hospital at Mt. Vernon, Alabama, for the benefit of the patients therein.

“(21) The gross proceeds of the sale, or sales, of wrapping paper and other wrapping materials when used in preparing poultry or poultry products for delivery, shipment, or sale by the producer, processor, packer or seller of such poultry or poultry products including pallets used in shipping poultry and egg products, paper or other materials used for lining boxes and other containers in which poultry or poultry products are packed together with any other materials placed in such containers for the delivery, shipment or sale of poultry and poultry products.

“(22) The gross proceeds of the sales of all antibiotics, harmones and hormone preparations, drugs, medicines or medications, vitamins, minerals or other nutrients and all other feed ingredients including concentrates, supplements and other feed ingredients when such substances are used as ingredients in mixing and preparing feeds for fish raised to be sold on a commercial basis, livestock and poultry. Such exemption herein granted shall be in addition to exemptions now provided by law for feed for fish raised to be sold on a commercial basis, livestock and poultry, but not including prepared foods for dogs or cats.

“(23) The gross proceeds of the sale, or sales, of seedlings, plants, shoots and slips which are to be used for planting vegetable gardens or truck farms. Nothing herein shall be construed to exempt, or exclude from the computation of the tax levied, assessed or payable, the gross proceeds of the sale, or the use of plants, seed-

lings, shoots, slips, nursery stock and floral products, except as hereinabove exempted.

“(24) The gross proceeds of the sale, or sales, of fabricated steel tube sections, when produced and fabricated in this state by any person, firm or corporation for any vehicular tunnel for highway vehicular traffic, when sold by the manufacturer or fabricator thereof, and also the gross proceeds of the sale, or sales, of steel which enter into and become a component part of such fabricated steel tube sections of said tunnel.

“(25) The gross proceeds from sales of admissions to any theatrical production, symphonic or other orchestral concert, ballet or opera production when such concert or production is presented by any society, association, guild or workshop group, organized within this state, whose members or some of whose members regularly and actively participate in such concerts or productions for the purposes of providing a creative outlet for the cultural and educational interests of such members, and of promoting such interests for the betterment of the community by presenting such productions to the general public for an admission charge.

“The employment of a paid director or conductor to assist in any such presentation described in this subdivision shall not be construed to prohibit the exemptions herein provided.

“(26) The gross proceeds of sales of herbicides for agricultural uses by whomsoever sold. The term ‘herbicides’, as used in this subdivision, means any substance or mixture of substances intended to prevent, destroy, repel or retard the growth of weeds or plants. It shall include preemergence herbicides, postemergence herbicides, lay-by herbicides, pasture herbicides, defoliant herbicides and desiccant herbicides.

“(27) The Alabama chapter of the cystic fibrosis research foundation and the Jefferson tuberculosis sanatorium and any of their departments or agencies, heretofore or hereafter organized and existing in good faith in the state of Alabama for purposes other than for pecuniary gain and not for individual profit, shall be exempted from the computation of the tax on the gross proceeds of all sales levied, assessed or payable.

“(28) The gross proceeds from the sale or sales of fuel for use or consumption aboard commercial fishing vessels are hereby exempt from the computation of all sales taxes levied, assessed, or payable under the provisions of this division or levied under any county or municipal sales tax law.

“The words ‘commercial fishing vessels’ shall mean vessels

whose masters and owners are regularly and exclusively engaged in fishing as their means of livelihood.

“(29) The gross proceeds of sales of sawdust, wood shavings, wood chips and other like materials sold for use as ‘chicken litter’ by poultry producers and poultry processors.

“(30) The gross proceeds of the sales of all antibiotics, harmones and hormone preparations, drugs, medicines and other medications including serums and vaccines, vitamins, minerals or other nutrients for use in the production and growing of fish, livestock and poultry by whomsoever sold. Such exemption as herein granted shall be in the addition to the exemption provided by law for feeds for fish, livestock and poultry, and in addition to the exemptions provided by law for the above-enumerated substances and products when mixed and used as ingredients in fish, livestock and poultry feeds.

“(31) The gross proceeds of the sale or sales of all medicines prescribed by physicians for persons who are 65 years of age or older, and when said prescriptions are filled by licensed pharmacists, shall be exempted under this division or under any county or municipal sales tax law. The exemption provided in this section shall not apply to any medicine purchased in any manner other than as is herein provided.

“For the purposes of this subdivision, proof of age may be accomplished by filing with the dispensing pharmacist any one or more of the following documents:

“a. The name and claim number as shown on a ‘Medicare’ card issued by the United States social security administration.

“b. A certificate executed by any adult person having knowledge of the fact that the person for whom the medicine was prescribed is not less than 65 years of age.

“c. An affidavit executed by any adult person having knowledge of the fact that the person for whom the medicine was prescribed is not less than 65 years of age.

“For the purposes of this subdivision, any person filing a false proof of age shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of \$100.00.

“(32) There shall be exempted from the tax levied by this division the gross receipts of sales of grass sod of all kinds and character when in the original state of production or condition or preparation for sale, when such sales are made by the producer or members of his family or for him by those employed by him to assist in the production thereof; provided, that nothing herein shall be construed

to exempt sales of sod by a person engaged in the business of selling plants, seedlings, nursery stock or floral products.

“(33) The gross receipts of sales of the following items or materials which are necessary in the farm to market production of tomatoes when such items or materials are used by the producer or members of his family or for him by those employed by him to assist in the production thereof: twine for tying tomatoes, tomato stakes, field boxes (wooden boxes used to take tomatoes from the field to shed) and tomato boxes used in shipments to customers.

“(34) The gross proceeds from the sale of liquified petroleum gas sold to be used for agricultural purposes.

“(35) The gross receipts of sales from state nurseries of forest tree seedlings.

“(36) The gross receipts of sales of forest tree seed by the state.

“(37) The gross receipts of sales of Lespedeza bicolor and other species of perennial plant seed and seedlings sold for wildlife and game food production purposes by the state.

“(38) The gross receipts of any aircraft manufactured, sold and delivered in this state if said aircraft are not permanently domiciled in Alabama and are removed to another state within three days of delivery.

“(39) The gross proceeds from the sale or sales of all diesel fuel used for off-highway agricultural purposes.

“(40) The gross proceeds from sales of admissions to any sporting event which

a. takes place in the State of Alabama on or after January 1, 1984, regardless of when such sales occur; and

b. is hosted by a not for profit corporation organized and existing under the laws of the State of Alabama; and

c. determines a national championship of a national organization, including but not limited to the Professional Golfers Association of America, the Tournament Players Association, the United States Golf Association, the United States Tennis Association, and the National Collegiate Athletic Association; and

d. has not been held in the State of Alabama on more than one prior occasion, provided, however, that for such purpose the Professional Golfers Association Championship, the United States Open Golf Championship, the United States Amateur golf championship of the United States Golf Association, and the United States

Open Tennis Championship shall each be treated as a separate event.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 16, 1984

Time: 4:20 P.M.

Act No. 84-316

H. 669—Rep. Laird

### AN ACT

To empower any city or town in this State to acquire, improve and equip land, buildings and other facilities for use by the United States Postal Service; to provide for the financing of costs of such acquisition, improvement and equipment, either as the sole purpose of such financing or combined with any other lawful purpose or purposes; and to provide for the leasing of such land, buildings and facilities to the United States Postal Service.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any city or town in this State (a) may acquire (by construction, purchase or otherwise), improve and equip land, buildings and other facilities for use by the United States Postal Service, (b) may lease any such land, buildings or facilities to the United States Postal Service on such terms and conditions as shall be mutually agreeable to such city or town and the United States Postal Service, (c) may borrow money for the purpose of financing the costs of any such acquisition, improvement and equipment, (d) may issue, in evidence of such borrowing, bonds, warrants, notes or other securities (which such bonds, warrants, notes or other securities shall mature and come due not later than thirty years from their date but shall otherwise be issued in accordance with, and shall be subject to, applicable provisions of law), (e) may borrow money and issue bonds, warrants, notes or other securities for the combined purpose of financing the costs of any such acquisition, improvement and equipment (or of refunding any bonds, warrants, notes or other securities theretofore issued therefor) and for any other lawful purpose or purposes, and (f) may pledge for the payment of any such bonds, warrants, notes or other securities any taxes, licenses or revenues that it is authorized by law to pledge for the payment of bonded or other indebtedness.

**Section 2.** The provisions of this act are severable. In the event any provision hereof should be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invali-



date or render unenforceable any other provisions of this act, which shall continue effective.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved May 16, 1984

Time: 4:20 P.M.

Act No. 84-317

S.J.R. 249—Senator Teague

### SENATE JOINT RESOLUTION

#### COMMENDING THE GIRLS' TRACK AND FIELD TEAM AT THE ALABAMA SCHOOL FOR THE DEAF.

WHEREAS, excellence is a tradition in the classroom and on the playing fields at the Alabama Institute for Deaf and Blind's Alabama School for the Deaf; and

WHEREAS, excellence is the quality of communities, and that victory tastes sweeter when shared with others; and

WHEREAS, until 1984, the track and field teams at the Alabama School for the Deaf could not stage home track meets; and

WHEREAS, the School and its parent institution, the Alabama Institute for Deaf and Blind, now enjoy one of the most modern track and field facilities for the sensory impaired, thanks to the generosity of the Kiwanis Clubs of Alabama; and

WHEREAS, the Alabama School for the Deaf girls' track team consisting of the following members: Renee Cowan, Lucille Dorsey, Fonda Folmar, Rosemary Martin, Noreen Miller, Marianne Nash, Rosie Parker, Jean Stallworth and Susan Wilson has responded to this new facility by reaching for new heights of excellence; and

WHEREAS, the team's coach, Miss Billie Lewis, has instilled in these young women the desire to succeed, the quality of sportsmanship and an appreciation of team work; and

WHEREAS, Jean Stallworth inspired the team with a state record in the 300 meter low hurdles; and

WHEREAS, a tradition of excellence began in 1980 with a second place finish at the State 1-A High School Track and Field Championships, followed by a third place in 1981, a State championship in 1982, and another second place finish in 1983; and

WHEREAS, the girls' track and field team at the Alabama

School for the Deaf once again reigns supreme in 1984 as State 1-A High School Track and Field Champions; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That the members of the girls' track and field team at the Alabama School for the Deaf are herein commended and honored by the entire State for their achievements; that they are recognized as role models to their peers and the citizens of this State as an example of what can be accomplished through hard work and determination; and that the members of the team are encouraged to carry these winning qualities over into all aspects of their lives, making excellence a living tradition in the school, community, and home.

**BE IT FURTHER RESOLVED,** That a copy of this resolution be provided for the members of the girls' track and field team and that a copy also be sent to the Alabama Institute for Deaf and Blind.

Approved May 17, 1984

Time: 2:00 P.M.

Act No. 84-318

H.J.R. 67—Reps. Ford, Coleman

### HOUSE JOINT RESOLUTION

**CREATING A JOINT INTERIM LEGISLATIVE CHILDREN AND YOUTH STUDY COMMITTEE.**

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That there is hereby created a Joint Interim Legislative Children and Youth Study Committee. The committee is to be composed of eight (8) members; four (4) to be appointed by the President of the Senate from Senate membership and four (4) House members which consist of the Representatives who attended the Southern Legislators' Conference on Children and Youth at Williamsburg. The chairman and vice chairman of the committee shall be elected at the first meeting by the members of the committee.

The committee shall study all aspects concerning law that would affect children from birth through adolescence. Areas of interest should emphasize, but not be limited to, day care, child labor laws, abuse, safety, health, mental health, crippled children's service and justice.

The National Conference of State Legislatures Advisory Committee on Children and Youth has asked for this study to be con-

ducted in Alabama as well as the Alabama Chapter of American Academy of Pediatrics.

Upon the request of the Chairman, the Secretary of the Senate and the Clerk of the House shall provide such clerical assistance as may be necessary for the committee's chairman. Each member of the committee shall be entitled to his regular legislative compensation, his per diem and travel expenses for each day he attends a meeting of the committee which shall be paid out of any funds appropriated to the use of the Legislature, upon warrants drawn on the state comptroller upon requisitions signed by the committee's chairman, provided, however, that members shall not receive additional legislative compensation or per diem when the Legislature is in session or if a member is being paid any other payments on the same dates for attendance of other state business. The total of such expenses shall not exceed \$8,000.

Approved May 17, 1984

Time: 2:00 P.M.

Act No. 84-319

H.J.R. 81—Rep. Browder

### HOUSE JOINT RESOLUTION

#### CREATING THE ALABAMA HISTORICAL RECORDS ADVISORY BOARD LEGISLATIVE OVERSIGHT COMMITTEE.

WHEREAS, the Legislature of the State of Alabama recognizes the great importance of identifying, preserving, and using the records which tell the history of the State; and

WHEREAS, the responsibility for the preservation of these records is shared by every citizen, organization, and agency in Alabama, but is a primary responsibility for archives, historical societies, and the manuscript repositories of libraries; and

WHEREAS, the Alabama Historical Records Advisory Board has been established by Governor George Wallace to help coordinate the efforts and improve the effectiveness of these archives, historical societies, and manuscript repositories in the preservation of our documentary heritage; and

WHEREAS, the Alabama Historical Records Advisory Board has received a grant from the National Historical Publications and Records Commission to conduct a detailed analysis of the condition and needs of historical records programs in Alabama for the areas of state government records, local government records, manuscripts, and cooperative records preservation programs; and

WHEREAS, the Legislature of the State of Alabama desires to be better informed about the effectiveness of the programs, many of which are supported with public funds that have been established to preserve Alabama's historical records; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Legislature of the State of Alabama does hereby establish the Alabama Historical Records Advisory Board Legislative Oversight Committee to investigate the condition of historical records preservation programs in the State of Alabama by participating in and analyzing the findings of the Historical Records Advisory Board's Assessment Project, and that this committee work with the Historical Records Advisory Board to develop ways to improve the identification, preservation, and use of the historical records resources of this State.

BE IT RESOLVED FURTHER, That the legislative oversight committee hereby created shall consist of three members of the Senate appointed by the Lieutenant Governor and three members of the House appointed by the Speaker.

Approved May 17, 1984

Time: 2:00 P.M.

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Act. No. 84-320

H.J.R. 321—Reps. Lindsey, Burke,  
Coleman

### HOUSE JOINT RESOLUTION

RESPECTFULLY REQUESTING PRESIDENT RONALD REAGAN TO APPOINT AN ALABAMIAN TO FILL THE VACANCY CURRENTLY EXISTING ON THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY.

WHEREAS, unlike Mississippi, Tennessee, Kentucky and other states in the TVA service area, Alabama has never had representation on the TVA Board of Directors, although the Tennessee Valley Authority Act of 1933 specifically embraces Alabama as the home of the agency; and

WHEREAS, there are a number of individuals in Alabama with a thorough understanding of the mission of TVA in serving the people of the Tennessee Valley; and

WHEREAS, Alabamians also are fully committed to the Authority's mandate to advance the economic development of the region, and there are those too, in our state, who are thoroughly knowledgeable of both legislation and programs concerning water re-

source development as well as TVA's activities in the fields of energy, transportation, flood control and conservation; and

WHEREAS, with a vacancy now existing on the TVA Board, it is both logical and realistic that said vacancy should and must be filled with Alabama's first appointment; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most respectfully but strongly urge President Reagan to appoint an Alabamian to the vacancy on the Board of Directors of the Tennessee Valley Authority.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded forthwith to President Reagan for his consideration with copies also provided for Alabama's Congressional Delegation in Washington, D.C.

Approved May 17, 1984

Time: 2:00 P.M.

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Act No. 84-321

S. 126—Senator Bailey

### AN ACT

To provide that a local board of education may at its discretion allow a sick leave bank for its employees to be established upon the request of such employees.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** A local board of education, upon the request of ten percent of its full time certificated and full time support personnel, may at its discretion establish a sick leave bank plan for each of the two groups.

**Section 2.** Each plan shall allow each employee to deposit an equal number of days not to exceed five (5) days of his or her earned sick leave into the bank. Such days so deposited shall then be available to be loaned to any participating employee whose sick leave has been exhausted.

**Section 3.** Upon agreement by a local board of education to establish a sick leave bank, the board shall enact policies providing for uniform administration of the sick leave bank. Proposed rules and regulations for the operation of the sick leave bank shall be jointly developed by a committee comprised of equal numbers of representatives of the employees and the local board of education. Following the development of the proposed rules and regulations, the committee shall submit said proposed rule and regulations to

the employees and the local board of education for approval. The accounting and administration of the sick leave bank shall be the responsibility of the local school board. Vacancies occurring on the committee shall be filled by the respective parties. No representative on the committee shall serve for a term longer than five (5) years.

**Section 4.** The sick leave banks as may be established shall include the following regulations but shall not be limited only to these regulations; but no local school board shall adopt any regulation that conflicts with the general regulations:

(a) No employee shall be allowed to owe more than 10 days more than the employee has on deposit to the sick leave bank, unless over 50% of the participating members of the bank vote to extend said limit.

(b) Application for sick leave loans shall be developed by the committee.

(c) Upon the resignation or other termination of an employee who has an outstanding loan of sick leave days, said value of loan shall be deducted from the final pay check and at the prevailing rate.

(d) A contributing employee to the program shall not be allowed to accumulate more than 150 days, including days accumulated in the sick leave bank.

(e) Participation in the sick leave bank shall at all times be voluntary on the part of the employee.

(f) Any alleged abuse of the use of the sick leave bank shall be investigated by the committee and, on a finding of wrongdoing, the employee shall repay all of the sick leave credits drawn from the sick leave bank and be subject to other appropriate disciplinary action as determined by the local school board.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1984

Time: 2:00 P.M.

Act No. 84-322

S. 193—Senators Corbett, Teague, Parsons,  
and Strong

## AN ACT

To amend Sections 25-5-13 and 25-5-50, Code of Alabama, 1975, so as to provide for certain additions and to remove certain exceptions from compulsory participation.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 25-5-13, Code of Alabama, 1975, is hereby amended to read as follows:

“§ 25-5-13. (a) The provisions of this chapter shall be applicable to the employees of all counties and all municipalities having populations greater than 2,000 according to the most recent federal decennial census, and the provisions of this chapter shall govern in their employment. The provisions of this chapter shall be applicable also to the employees of all county and city boards of education, Alabama Institute for the Deaf and Blind and all employees of the two-year colleges under the control of the State Board of Education, and the provisions of this chapter shall govern in their employment. The employees of all school systems and institutions, counties, and each municipality covered under the provisions of this section above shall have available to them all the rights and remedies provided under this chapter. The governing bodies of all school systems and institutions, counties, and of each municipality covered under the provisions of this section shall file all necessary employer reports and notices required at the times and in the manner prescribed in this chapter.

(b) Notwithstanding the provisions of subsection (a) of this section, the provisions of this chapter shall not apply to any city (excepting school districts and institutions) which has a population of 250,000 or more according to the last or any subsequent decennial federal census, to any park and recreation board now or hereafter established for such cities to any board or agency now or hereafter authorized and established by the governing body of such cities nor to employees of any such city or of any such board or agency.

**Section 2.** Section 25-5-50, Code of Alabama, 1975, is hereby amended to read as follows:

“§ 25-5-50. This article and article 2 of this chapter shall not be construed or held to apply to domestic servants, to farm laborers whose employers have not filed an election to become subject to this chapter or to persons whose employment at the time of the injury is casual and not in the usual course of the trade, business, profession or occupation of the employer or to any employer who regularly em-

employs less than three employees in any one business or to any municipality having a population of less than 2,000 according to the most recent federal decennial census. Any individual employer, as defined in section 25-5-1 hereof, any employer who regularly employs less than three employees in any one business, any farmer, or any municipality having a population of less than 2,000 according to the most recent federal decennial census may accept the provisions of this article and article 2 of this chapter by filing written notice thereof with the department of industrial relations, a copy thereof to be posted at the place of business of said employer; provided further, that any employer who has so elected to accept the provisions of this article and article 2 of this chapter may at any time withdraw the acceptance by giving like notice of withdrawal.

Notwithstanding the foregoing paragraph, any officer of a corporation may elect annually to be exempt from coverage by filing written certification of such election with the department of industrial relations and his insurance carrier.

A corporate officer who has exempted himself by proper certification from coverage may at the end of any calendar year revoke such exemption and thereby accept coverage by filing written certification of his election to be covered with the department of industrial relations and his insurance carrier.

The certification for exemption or reinstatement of coverage shall become effective on the first day of the calendar month following the filing of the certification of exemption or reinstatement of coverage with the department of industrial relations.

In the event that the corporate officer election occurs, such election shall not relieve the employer from continuing coverage for all other eligible employees who may have been covered prior to the election or who may subsequently be employed by the firm."

**Section 2.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 3.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** The provisions of this Act shall become effective on August 15, 1984 provided, however, the provisions of this amendatory act shall not be in effect until sufficient funds are appropriated from the Special Educational Trust Fund to implement said provisions; and further provided that nothing contained herein shall prohibit any school board that voluntarily elects to provide such coverage from doing so with local or other available funds.



Approved May 17, 1984

Time: 2:00 P.M.

Act No. 84-323

S. 299—Senator Cooley

AN ACT

To provide each teacher employed by county and city boards of education and the Alabama Institute for Deaf and Blind a minimum of thirty minutes of time each day free of instructional or supervisory responsibilities and to provide funds for the employment of teacher aids.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 16-1-1, Code of Alabama, 1975 is hereby amended to read as follows:

“Section 16-1-1. For purposes of this title, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) **SCHOLASTIC DAY.** Shall not be less than six hours of actual teaching, exclusive of all recesses or intermission periods unless otherwise ordered by the county or city board of education. County and city boards of education and the Alabama Institute for Deaf and Blind shall be required to provide each teacher employed a minimum of thirty minutes of time free of instructional or supervisory responsibilities each teaching day. This provision shall not be interpreted to deprive any teacher of benefits exceeding the minimum requirements of this Act.

(2) **SCHOLASTIC WEEK.** Shall consist of five school days each week.

(3) **SCHOLASTIC MONTH.** Shall constitute 20 school days.

(4) **SCHOLASTIC YEAR.** Shall begin with the first day of July and end with the thirtieth day of June each year.

(5) **FISCAL YEAR.** From October first to September thirtieth, inclusive.”

**Section 2.** For the purposes of implementing this Act, there is hereby appropriated from the Alabama Special Educational Trust Fund the sum of \$3,500,000 to employ teacher aids to implement the provisions of this Act. The funds provided for herein shall be distributed to the county and city boards of education on the basis of the average daily attendance for the preceding school year. The teacher aides employed under the terms of this Act shall be utilized

by the county and city boards of education to assist teachers with instructional and non-instructional activities.

**Section 3.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 4.** Provisions of the Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** This Act shall become effective with the 1984-85 school year.

Approved May 17, 1984

Time: 2:00 P.M.

Act No. 84-324

S. 312—Senators Mitchem and Little

#### AN ACT

To provide further for venue with respect to filing petitions to modify divorce decrees relating to child custody and visitation rights.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Notwithstanding any law to the contrary, venue of all proceedings for petitions or other actions seeking modification of a final decree awarding custody of a child or children to a parent and/or seeking modification of visitation rights of a parent, and/or the amount of child support payment, where the circuit court in its previous decree has granted custody and/or awarded visitation rights to a particular parent in connection with a divorce decree or a modification of the original divorce decree, is changed so that venue will lie in: (1) the original circuit court granting custody of the said minor child or children to the current custodial parent or awarding visitation rights to a particular parent; or (2) in the circuit court of the county where both the current custodial parent and the said minor child or children have resided for a period of at least three consecutive years immediately preceding the filing of the petition or other action seeking to modify the circuit court's decree awarding custody and/or visitation rights to a particular parent. The current custodial parent shall be able to choose the particular venue as herein provided, regardless of which party files the petition or other action seeking modification.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon

its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1984

Time: 2:00 P.M.

Act No. 84-325

S. 227—Senator Foshee

### AN ACT

To amend Sections 12-17-231 and 12-17-233, Code of Alabama 1975, relating to the Office of Prosecution Services, so as to provide that employees of said office shall be eligible for membership in the state employees' retirement system; to authorize legislative appropriations to the office; and to further define the program of the Office of Prosecution Services.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 12-17-231 and 12-17-233, Code of Alabama 1975, are hereby amended to read as follows:

“§ 12-17-231. There shall be an executive director of the office of prosecution services and whatever staff is necessary to carry out the purpose of this office. Such director and employees shall not be subject to the provisions of the State Merit System Act but shall be eligible to participate in the state employees' retirement system and shall be credited for retirement purposes by the Alabama State Retirement System for all time employed by the office prior to the effective date of this act, provided that the director and each employee shall pay to the secretary-treasurer within two years from the effective date of this act the amount he would have been required to contribute to the Employees' Retirement System for each year of prior service had he been a member together with 8 percent compounded interest. Past employees may obtain credit for past service in the same manner as present employees.”

“§ 12-17-233. It is the intention of the legislature that the office of prosecution services be funded from the several district attorney or solicitor funds of all 39 judicial circuits. This article hereby authorizes the lawful custodians of such funds to contribute moneys for the administration of the office of prosecution services. Such custodians shall be required to remit, on a monthly basis, 10 percent of the moneys collected for their respective district attorney or solicitor funds to the office of prosecution services; provided, that nothing contained in this article shall prohibit such custodians from contributing over and above 10 percent of the moneys collected for their respective district attorney or solicitor funds. The department of examiners of public accounts shall audit all the expenditures and reve-

nues of this agency annually. The legislature may make appropriations to said office, and the office is authorized to receive and expend any such appropriations."

**Section 2.** For the purposes of Section 41-19-10, 1975 Code of Alabama, the Office of Prosecution Services is considered within the same program as the offices of District Attorneys. Upon approval of the finance director, transfers of any budget excesses from District Attorneys objects of expenditures may be made to the Office of Prosecution Services objects of expenditures. Any such transfers to said office shall not revert to the general fund and may be expended by the Office of Prosecution Services in accordance with applicable law. Any such transfers to the Office of Prosecution Services are limited to two and one half percent of District Attorneys annual budget.

**Section 3.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 5.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1984

Time: 2:00 P.M.

Act No. 84-326

S. 538—Senator Smith (J)

### AN ACT

To amend Chapter 17 of Title 27, Code of Alabama 1975, by adding a new section to modify the method of calculating reserves on burial insurance policies.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Except as hereinafter provided, any authorized insurer who issues or has heretofore issued "Burial Insurance" in this state shall value the life insurance reserve liabilities for such policies (hereinafter "Burial Reserves") in accordance with the provisions of § 27-36-7.

**Section 2.** An insurer shall increase the amount of insurance on which its Burial Reserves are based, not to exceed the retail value of such benefits as stated in the policies, when appropriate to reflect an increase in the costs to the insurer of providing the policy bene-

fits. When an insurer shall increase the amount of insurance for this purpose, it shall be permitted to change the assumed interest rate and the valuation mortality table for computing such reserves, provided that the resulting reserves after such increase in amount of insurance and change in assumed interest rate or valuation mortality table, or both, shall not be less than the reserves before such changes, and provided further that the reserves shall not be less than those calculated using the minimum standards set forth below.

**Section 3.** The minimum standards for valuation of Burial Reserves under this Act shall be:

a. an assumed interest rate not exceeding six percent per annum;

b. the commissioners 1961 standard industrial mortality table or any industrial mortality table, adopted after 1980 by The National Association of Insurance Commissioners, that is approved by the commissioner for use in determining the minimum standard of valuation for such policies; and

c. the commissioners reserve valuation method as defined by § 27-36-7(e), as may be amended from time to time.

**Section 4.** Prior to the filing date of the Annual Statement for the year in which the insurer intends to change the assumed interest rate or the valuation mortality tables, or both, used in the valuation of Burial Reserves as permitted under this Act, the insurer shall communicate in writing to the commissioner the valuation standards to be used in such calculation. The insurer shall as to each block of business specify the interest rate, mortality table, valuation method, and amount of insurance to be used in the reserve calculation. "Block of business" shall mean a logical and identifiable grouping of policies as specified by the insurer in its written notice to the commissioner.

**Section 5.** Nothing in this Act shall be construed as authorizing or requiring an increase in the retail value of the policies or in the nonforfeiture values, including the Cash Surrender Values of subject burial insurance policies.

**Section 6.** To the extent that other laws or parts of laws may be construed as being applicable to the calculation of Burial Reserves, the provisions of this Act shall take precedence over and supersede said provisions to the extent necessary to effectuate the intent of this Act.

**Section 7.** The provisions of the Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part that remains.

**Section 8.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law

Approved May 17, 1984

Time: 2:00 P.M.

Act No. 84-327

S.J.R. 217—Senator Little

### SENATE JOINT RESOLUTION

CREATING AN INTERIM COMMITTEE TO REVIEW PROFESSIONAL, PRIVILEGE, BUSINESS, VOCATIONAL AND OCCUPATIONAL LICENSES AS PRESENTLY REQUIRED BY THE STATE.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created an Interim Committee on State Licenses to meet during interim periods between regular sessions of the Legislature for the purpose of reviewing professional, privilege, business, vocational and occupational licenses as presently required by law and to appropriately compare such licenses with their counterparts in other states, during which periods the members of such Committee shall each be entitled to, and shall receive, the same daily legislative compensation, expense allowances, per diem and other compensation which they receive while in legislative session, and in the same manner and under the same conditions as when they meet in legislative session. Provided, however, that said Committee shall not expend more than \$10,000 in any interim period. The compensation of the Committee employees shall be paid as provided in Section 29-1-9 and 29-1-10 of the Code of Alabama 1975 and the Clerk of the House and the Secretary of the Senate shall furnish appropriate secretarial assistance. It shall be the duty of the Committee to carefully study and analyze the aforementioned state licensing requirements and to report its findings and recommendations as herein provided. The Committee shall be composed of two members from the Senate appointed by the Lieutenant Governor and two members from the House of Representatives appointed by the Speaker of the House of Representatives. The Lieutenant Governor shall designate one of his appointees to serve as chairman of the Committee.

All departments, boards, bureaus, commissions, agencies, officers and institutions of the state shall and are hereby directed to cooperate fully with the Committee and shall furnish any and all information that may be requested by the Committee.

BE IT FURTHER RESOLVED, That the final report of the Committee, along with its findings and recommendations, shall be submitted to the Governor and each member of the Legislature no later than the fifth legislative day of the 1985 regular session. Said Committee shall terminate March 1, 1985.

Approved May 17, 1984

Time: 2:00 P.M.

Act No. 84-328

H. 215—Reps. Onderdonk, Marietta  
AN ACT

To amend Section 1 of Act No. 83-889, Fourth Special Session of 1983, so as to define "Discovery well", "Development wells", "Onshore well", "Replacement well", "Commenced", "Completion" and "Pool", and to amend Section 2 of Act No. 83-889, Fourth Special Session of 1983, so as to provide that all oil and gas produced from onshore discovery wells, all oil and gas produced from onshore development wells on which drilling commenced within four years of the completion date of the discovery well and producing from a depth of 6,000 feet or greater, and all oil and gas produced from onshore development wells on which drilling commenced within two years of the completion date of the discovery well and producing from a depth less than 6,000 feet shall be taxed at a rate of six (6) percent of the gross value of said oil and gas at the point of production for a period of five (5) years from the date production begins from said discovery and development wells, provided that said discovery and development wells were permitted by the State Oil and Gas Board of Alabama after July 1, 1984; and providing further that the six (6) percent tax rate applicable to a discovery well or development well shall be applicable to any replacement well drilled to replace the discovery well or the development well during the six-percent, five-year, tax-rate period for only the remainder of the said tax-rate period.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 83-889 of the Fourth Special Session of 1983 is hereby amended to read as follows:

"Section 1. Section 40-20-1, Code of Alabama 1975, is hereby amended to read as follows:

"Section 40-20-1.

"For the purpose of this article, the following terms shall have the respective meanings ascribed by this section:

"(1) DEPARTMENT. The state department of revenue.

"(2) ANNUAL. The calendar year or the taxpayer's fiscal year, when permission is obtained from the department to use a fiscal year as a tax period in lieu of a calendar year.

"(3) VALUE. The sale price or market value at the mouth of the well. If the oil or gas is exchanged for something other than

cash, if there is no sale at the time of severance or if the relation between the buyer and the seller is such that the consideration paid, if any, is not indicative of the true value or market price, then the department shall determine the value of the oil or gas subject to the tax hereinafter provided for, considering the sale price for cash or oil or gas of like quality.

“(4) OIL. Crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the well.

“(5) GAS. All natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in subdivision (4) above.

“(6) SEVERED. The extraction or withdrawing from the soil or water or from below the surface of the soil or water of any oil or gas, whether such extraction or withdrawal shall be by natural flow, mechanically enforced flow, pumping or any other means employed to get the oil or gas from the soil or water or from below the surface of the soil or water.

“(7) PERSON. Any natural person, firm, copartnership, joint venture, association, corporation, estate, trust and any other group or combination acting as a unit, and the plural as well as the singular number.

“(8) PRODUCER. Any person engaging or continuing in the business of oil or gas production, which, for the purpose of this article, includes the owning, controlling, managing, or leasing of any oil or gas property or oil or gas well, and producing in any manner any oil or gas by taking it from the soil or waters, or from beneath the soil or waters, of the state of Alabama, and further includes receiving money or other valuable consideration as royalty or rental for oil or gas produced or because of oil or gas produced, whether produced by him or by some other person on his behalf, either by lease, contract or otherwise, and whether the royalty consists of a portion of the oil or gas produced being run to his account or a payment in money or other valuable consideration.

“(9) SUBMERGED LANDS. All lands within the territorial jurisdiction of the State of Alabama that are continuously or intermittently covered by marine or marine influenced waters and are below the mean high tide mark on all islands and land adjacent to the Mississippi Sound, Mobile Bay, Bon Secour Bay, Wolf Bay, Ar-nica Bay, Bay La Launch and Perdido Bay; and excludes all areas upstream of the confluence of the Mississippi Sound, Mobile Bay, Wolf Bay and Perdido Bay with their natural tributaries.

“(10) OFFSHORE DRILLING OR PRODUCTION FACILI-



**TIES.** Barges, platforms or other drilling or production facilities located on submerged lands to drill or to produce oil or gas.

“(11) **OFFSHORE PRODUCTION.** Gas or oil produced from offshore drilling or production facilities from wells located on submerged lands within the territorial jurisdiction of the state of Alabama.

“(12) **DISCOVERY WELL.** Any well capable of producing oil and/or gas from a single pool in which a well has not been previously completed as a well capable of producing.

“(13) **DEVELOPMENT WELLS.** All oil and/or gas producing wells other than discovery wells and replacement wells.

“(14) **ONSHORE WELL.** Any oil or gas well that is drilled in an area other than submerged lands as defined herein.

“(15) **REPLACEMENT WELL.** A well drilled on a drilling and/or production unit to replace another well which is drilled in the same unit and completed in the same pool.

“(16) **COMMENCED.** A well shall be deemed to have commenced when the well is spudded.

“(17) **COMPLETION.** A well shall be deemed to be completed for purposes of this Act when drilling and logging operations have ceased.

“(18) **POOL.** As used herein, pool shall mean a single underground reservoir containing a common accumulation of oil or gas or both. Each zone of a general structure which is completely separated from any other zone in the structure is a single pool as that term is used herein.

**Section 2.** Section 2 of Act No. 83-889 of the Fourth Special Session of 1983 is hereby amended to read as follows:

“Section 2. Section 40-20-2, Code of Alabama 1975, is hereby amended to read as follows:

“Section 40-20-2.

“(a) There is hereby levied, to be collected hereafter, as herein provided, annual privilege taxes upon every person engaging or continuing to engage within the state of Alabama in the business of producing or severing oil or gas, as defined herein, from the soil or the waters, or from beneath the soil or the waters, of the state for sale, transport, storage, profit or for use. The amount of such tax shall be measured at the rate of eight percent of the gross value of said oil or gas at the point of production except as provided herein. All wells producing 25 barrels or less of oil per day or producing 200,000 cubic feet or less of gas per day shall be taxed at the rate of four percent

of the gross value of said oil or gas at the point of production; all oil and gas produced from onshore discovery wells, all oil and gas produced from onshore development wells on which drilling commenced within four years of the completion date of the discovery well and producing from a depth of 6,000 feet or greater, and all oil and gas produced from onshore development wells on which drilling commenced within two years of the completion date of the discovery well and producing from a depth less than 6,000 feet shall be taxed at a rate of six (6) percent of the gross value of said oil and gas at the point of production for a period of five (5) years from the date production begins from said discovery and development wells, provided, that all production to receive a six-percent tax rate, which is produced from discovery wells, must be from discovery wells permitted by the State Oil and Gas Board of Alabama after July 1, 1984, and that all production to receive a six-percent tax rate from development wells on which drilling commenced within the required time of completion of a discovery well, which was permitted after July 1, 1984, and said development well must also have been permitted after July 1, 1984, provided however, that the six percent tax rate applicable to a discovery well or development well shall be applicable to any replacement well drilled to replace the discovery well or the development well during the six-percent, five-year, tax rate period for only the remainder of the said tax rate period; and all oil or gas produced by offshore production, as defined herein, at depths greater than 18,000 feet below mean sea level, shall be taxed at the rate of six percent of the gross value of said oil or gas production at the point of production.

“(b) The tax is hereby levied upon the basis of the entire production in this state, including what is known as the royalty interest, on which production the amount of such tax shall be a lien, regardless of the place of sale or to whom sold, or by whom used, or the fact that the delivery may be made to points outside the state; and the tax shall accrue at the time such oil or gas is severed from the soil or the waters, or from beneath the soil or the waters, and in its natural, unrefined or unmanufactured condition.

“(c) A county, city, town or municipality of the state of Alabama shall not establish, levy, impose or collect, as a condition of doing business or otherwise, any tax, fee, license or charge whatsoever, directly or indirectly, on or with respect to the production, treating, processing, ownership, sale, storage, purchase, marketing or transportation on any oil or gas produced in the state of Alabama and on which severance taxes have been paid to the state of Alabama, or upon the business of producing, treating, processing, owning, selling, buying, storing, marketing or transporting such oil or gas, or upon the ownership, operation or maintenance of plants, fa-

cilities, machinery, pipelines, gathering lines or any equipment whatsoever, which are, or may be, necessary or convenient to the production, treating, processing, ownership, storage, sale, purchase, marketing or transportation of such oil or gas; provided, that nothing herein shall be construed to prohibit, limit or restrict a county, city, town or municipality from imposing and collecting ad valorem taxes on any property, real or personal, not otherwise now exempted by law; further, the limitation herein imposed upon counties, cities, towns and municipalities shall not apply to any county, city, town or municipality which does not receive a share of the severance tax levied upon production other than offshore production as defined in Section 40-20-1 under the provisions of this article. Said limitation herein imposed upon counties, cities, towns and municipalities shall remain in full force and effect in regard to offshore production as defined in Section 40-20-1.

“(d) Nothing contained herein shall be deemed to limit or to enlarge the authority of a county, city, town or municipality to levy taxes or licenses on oil refining facilities located therein or on the suppliers of services or goods not including oil or gas to those persons engaging in the business of producing, treating, processing, owning, selling, buying, storing, marketing or transporting such oil or gas. Provided, however, no such taxes or licenses shall be levied on offshore drilling or production facilities as defined in Section 40-20-1.

“(e) In all cases of production of oil from unit operations as authorized and approved by the state oil and gas board of Alabama, for the purposes of computing the per well production aforesaid, the aggregate production of oil from the entire unit shall be divided by the number of wells within the unit, including injection, disposal and other wells utilized in unit operations, and the quotient thereof shall be deemed and declared to be the number of barrels of oil produced from each well in such unit regardless of the actual amount of oil per day produced from the well, if any.”

**Section 3.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of law which conflict with this Act are hereby repealed.

**Section 5.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 17, 1984

Time: 2:00 P.M.

Act No. 84-329

S.J.R. 214—Senators Bedford, Hand,  
Bennett and Figures

## SENATE JOINT RESOLUTION

CHANGING THE COMPOSITION OF THE SELECT JOINT NUCLEAR ENERGY ACTIVITIES AND HAZARDOUS CHEMICAL TOXIC WASTE OVERSIGHT COMMITTEE BY ADDING TWO MEMBERS OF THE HOUSE OF REPRESENTATIVES TO BE APPOINTED BY THE SPEAKER AND THREE MEMBERS OF THE SENATE TO BE APPOINTED BY THE LIEUTENANT GOVERNOR.

WHEREAS, the continuing Select Joint Nuclear Energy Activities and Hazardous Chemical Toxic Waste Oversight Committee was created by Act No. 81-307 to oversee all facets of nuclear energy activities and hazardous waste with particular emphasis focused on low-level radioactive waste and hazardous chemical toxic waste disposal; and

WHEREAS, recent attention placed on hazardous waste disposal in the State of Alabama has highlighted the need for a more intensive and thorough investigation of the problems of nuclear and hazardous chemical toxic waste disposal; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the continued Select Joint Nuclear Energy Activities and Hazardous Chemical Toxic Waste Oversight Committee is enlarged in its membership to provide for two (2) additional members to be appointed from the House of Representatives to be appointed by the Speaker of the House of Representatives and three (3) additional members to be appointed from the Senate to be appointed by the Lieutenant Governor. A chairman and vice chairman of the committee shall be elected at the first meeting of the committee held in 1984, which shall be held no later than May 22, 1984.

Upon the request of the Chairman, the Secretary of the Senate and the Clerk of the House shall provide such clerical assistance as may be necessary for the committee's work.

Each member of the committee shall be entitled to his/her regular legislative compensation, his/her per diem and travel expenses for each day he/she attends a meeting of the committee which shall be paid out of any funds appropriated to the use of the Legislature; provided, however, that members shall not receive additional legislative compensation or per diem when the Legislature is in session but they shall receive their travel expenses when travelling upon the

business of the committee the total expenditures shall not exceed \$35,000 dollars.

This committee is charged with the responsibility of investigating all aspects of hazardous waste disposal in the State of Alabama. They are further charged with the responsibility of comparing these facilities with other like facilities throughout the country. The committee should seek expert testimony as it relates to hazardous waste disposal throughout the state and the nation. They should further determine whether fees and charges imposed on said facilities are reasonable and should make any recommendations that they deem appropriate for the health and safety for our citizens to the entire Legislature of Alabama.

Approved May 17, 1984

Time: 2:00 P.M.

Act No. 84-330

H. 231—Rep. Coburn

### AN ACT

To make annual appropriations for the support, maintenance and development of public education in Alabama and for debt service and capital improvements for the fiscal year ending September 30, 1985.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated for the support of public education in Alabama for the fiscal year ending September 30, 1985, and for the public debt, to be paid out of funds specified in subsection (a) of Section 2 of this Act, the amounts specified in Sections 3 to 6, inclusive. For the purpose specified in subsection (b) of Section 2 of this Act, amounts are shown by programmatic area and the total for all programs is shown so as to include estimated sources of funds other than the appropriation made in subsection (a) of Section 2 of this Act. For the purpose of this Act, "ASETF" shall mean Alabama Special Educational Trust Fund.

**Section 2.** (a) The appropriations provided for in this act shall be paid from funds in the State Treasury to the credit of the Alabama Special Educational Trust Fund and Alabama Special Educational Trust Fund Surplus, Special Mental Health Trust Fund, Alabama Board of Nursing Trust Fund, Alabama Peace Officers' Standards and Training Fund, and Public School Fund and are hereby made for the support of public education in Alabama for the fiscal year ending September 30, 1985, and except as may be otherwise expressly provided, the appropriations herein made shall be subject to the provisions, terms, conditions and limitations of the

Budget and Financial Control Act (Code of Alabama 1975, Sections 41-4-80 through 41-4-96, inclusive, as amended), the provisions of the Budget Management Act of 1976 (Code of Alabama 1975, Sections 4-19-1 through 41-19-12, inclusive as amended), and shall be in the amounts hereinafter specified.

(b) Amounts shown herein under the columns "Trust Funds" and "Appropriation Total" are set forth for the purpose of indicating amounts estimated to be available by programmatic area from sources other than from appropriations made in subsection (a) of this Section 2, in order, upon consideration of such other funds so estimated to be available, to promote the accountability for an efficient use of funds available to and hereby appropriated by the Legislature, it being the intention hereof to make appropriations only from the funds referred to in subsection (a) of this Section 2. Provided, however, that regardless of the ending date of any pay period which has been or may be established by the Legislature for the payment of salaries of state employees, the entire payment due shall be made from the fiscal year's appropriation in which the pay date falls.

### Section 3:

	ASETF	Trust Funds	Approp. Total
<b>A. STATE AGENCIES</b>			
<b>1. ACADEMY OF HONOR, ALABAMA:</b>			
(a) Historical Resources Management Program .....			1,010
<b>SOURCE OF FUNDS:</b>			
(1) ASETF—Transfer .....	1,010		
Total Alabama Academy of Honor .....	1,010		1,010
<b>2. ARTS AND HUMANITIES, COUNCIL ON THE:</b>			
(a) Fine Arts Program .....			1,370,000
Of the above appropriation, \$10,000 is hereby appropriated to Alabama Outdoor Drama. The appropriation to the Council on the Arts and Humanities shall include a transfer to the State Personnel Department of \$619.			

## SOURCE OF FUNDS:

(1) ASETF—Transfer .....	900,000		
(2) Federal and Local Funds .....		470,000	
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Total Council on the Arts and Humanities .....	900,000	470,000	1,370,000
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3. BUILDING COMMISSION,  
STATE:

(a) Special Services Program .....		400,000	
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## SOURCE OF FUNDS:

(1) ASETF—Transfer .....	400,000		
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Total State Building Commission .....	400,000		400,000
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## 4. DEBT SERVICE .....

## (a) Interest on Endowments:

For interest on University of Montevallo (Alabama College) Endowment, Estimated .....	34,964		
For interest on Auburn University Endowment .....	20,280		
For interest on University of Alabama Endowment .....	61,000		
For interest on Grove Hill Endowment .....	600		
For interest on Public School Fund Endowment:			
Interest on 16th Section Lands, Estimated .....	410,000		
Interest on School Indemnity Lands, Estimated .....	90,000		
Interest on Valueless 16th Section Lands .....	5,825		
Interest on Surplus Revenue .....	26,764		

Interest on James Wallace Fund.....	275	
Total Interest on Public School Fund Endowment .....	532,864	

## SOURCE OF FUNDS:

(1) ASETF .....	649,708	
Total Debt Service .....	649,708	649,708

5. DENTAL SCHOLARSHIP  
AWARDS, BOARD OF:

(a) Support of Other Educational Activities Program .....		179,000
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## SOURCE OF FUNDS:

(1) ASETF .....	179,000	
Total Board of Dental Schol- arship Awards .....	179,000	179,000

(To be expended under the  
provisions of Code of Alabama  
1975, Sections 16-47-76  
through 16-47-81, inclusive, as  
amended.)

6. EDUCATION, DEPARTMENT  
OF:

(a) Administrative Services Pro- gram .....		11,169,248
The proposed spending plan for the above is as follows:		
Compact for Edu- cation .....	35,100	
Operations and Maintenance of Department .....	2,508,462	
Telephone Net- work Fund, Estimated .....	1,700,000	
Leadership and Management .....	270,000	

## SOURCE OF FUNDS:

(1) ASETF .....	4,513,562	
(2) Federal and Local Funds .....		6,655,686



Total Administrative Services Program .....	4,513,562	6,655,686	11,169,284
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The above appropriation shall include a transfer to the State Personnel Department of \$91,080.

- (b) Adult Education Program ..... 4,184,166

The proposed spending plan for the above is as follows:

Adult Basic Education .....	1,986,000
Community Education .....	224,000

SOURCE OF FUNDS:

(1) ASETF .....	2,210,000
(2) Federal and Local Funds .....	1,974,166

Total Adult Education Program .....	2,210,000	1,974,166	4,184,166
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- (c) Direct Client Services for the Handicapped ..... 45,730,100

To be distributed by the Department of Education as follows:

Crippled Children Services Program ..	5,685,000
Handicapped Recreation Program ..	200,000

(To provide recreation and services at a year-round accredited handicapped recreation facility.)

Hemophilia Program .....	300,00
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Homebound Program .....	3,000,000
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Rehabilitation Services Program ....	7,157,000
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(Of the above appropriation to Rehabilitation Services Program, \$250,000 shall be used for the Deaf

Support Service  
Program.)

SOURCE OF FUNDS:

(a) ASETF .....	16,342,000		
(2) Federal and Local Funds .....		29,388,100	

Total Direct Client Services for the Handicapped .....	16,342,000	29,388,100	45,730,100
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- (d) Emergency Medical Services  
Education Program ..... 1,500,000  
To be distributed by the De-  
partment of Education as fol-  
lows:

- (1) Birmingham Regional  
Emergency Medical Sys-  
tem ..... 250,000
- (2) East Alabama Emer-  
gency Medical Services,  
Inc. .... 250,000
- (3) North Alabama Emer-  
gency Medical Services,  
Inc. .... 250,000
- (4) Southeast Alabama Emer-  
gency Medical Services  
System, Inc. .... 250,000
- (5) Southwest Alabama Emer-  
gency Medical Services  
Council, Inc. .... 250,000
- (6) West Alabama Emer-  
gency Medical Services,  
Inc. .... 250,000

The amounts herein appropri-  
ated shall be used for the oper-  
ation and maintenance of the  
various medical services pro-  
grams named and for the  
purchase of instructional sup-  
plies and new instructional  
equipment for such programs.

SOURCE OF FUNDS:

(1) ASETF .....	1,500,000
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Total Emergency Medical Ser- vices Education Program .....	1,500,000	1,500,000
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- (e) Financial Assistance Program .

187,297,729

The proposed spending plan  
for the above is as follows:

Basic Skills Pro- gram .....	165,464
Elementary Teach- ers Scholarships...	25,000

(To be paid in ac-  
cordance with Code  
of Alabama 1975,  
Section 16-23-17,  
as amended).

SOURCE OF FUNDS:

(1) ASETF .....	190,464
(2) Federal and Local Funds ..	187,107,265

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Total Financial Assistance Program .....	190,464	187,107,265	187,297,729
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(f) Instructional Technical Assis-  
tance Program ..... 8,521,208

The proposed spending plan  
for the above is as follows:

Career Education ..	175,000
Early Childhood/ Kindergarten Ad- ministration .....	110,000
Instructional Tech- nical Assistance ...	673,441
Special Education Administration....	450,000
Vocational Educa- tion Administra- tion .....	686,000

SOURCE OF FUNDS:

(1) ASETF .....	2,094,441
(2) Federal and Local Funds ..	6,426,767

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Total Instructional Technical Assistance Program .....	2,094,441	6,426,767	8,521,208
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(g) Local Agency Support Program ..... 11,350,012

The proposed spending plan  
for the above is as follows:

Driver Education,  
School Bus Driver  
Training and Vehi-

cle Safety Inspection .....	280,000		
Free Textbooks ...	8,676,470		
Guidance and Counseling .....	50,000		
School Facilities and Architectural Services .....	110,000		
Testing .....	500,000		
(1) ASETF .....	9,616,470	1,733,542	
(2) Federal and Local Funds .....			
Total Local Agency Support Program .....	9,616,470	1,733,542	11,350,012
(h) Regulation Program .....			1,323,067
The proposed spending plan for the above is as follows:			
School Attendance .....	31,260		
Teacher Certification and Accreditation .....	333,105		
Undergraduate/Graduate Program Approval .....	240,000		
SOURCE OF FUNDS:			
(1) ASETF .....	604,365	718,702	
(2) Federal and Local Funds .....			
Total Regulation Program .....	604,365	718,702	1,323,067
(i) Support of Other Educational Activities Program .....			9,300
The proposed spending plan for the above is as follows:			
Education of Dependents of Blind Parents .....	9,300		
SOURCE OF FUNDS:			
(1) ASETF .....	9,300		
Total Support of Other Educational Activities Program ...	9,300		9,300
For reimbursement of every State Institution of Higher Learning, College, University,			

or Technical College or Junior College in which benefits are given to dependents of blind parents under the provisions of Code of Alabama 1975, Sections 16-33-1 through 16-33-12, inclusive, as amended.

- (j) Support of State Universities Program ..... 50,000

**SOURCE OF FUNDS:**

- (1) Federal and Local Funds ..... 50,000

Total Support of State Universities Program ..... 50,000      50,000

- (k) Projects—Vocational Rehabilitation/Crippled Children Services Program ..... 761,848  
Of the above appropriation, \$20,000 is hereby appropriated for the Eye Injury Register.

**SOURCE OF FUNDS:**

- (1) ASETF ..... 20,000  
(2) Federal and Local Funds ..... 741,848

Total Projects—Vocational Rehabilitation/Crippled Children Services Program ..... 20,000      741,848      761,848

- (l) Disability Determination for Social Security Program ..... 19,072,934

**SOURCE OF FUNDS:**

- (1) Federal and Local Funds ..... 19,072,394

Total Disability Determination for Social Security Program ..... 19,072,394      19,072,394

**TOTAL DEPARTMENT OF EDUCATION:**

**SOURCE OF FUNDS:**

- (1) ASETF ..... 37,100,602  
(2) Federal and Local Funds ..... 253,868,470

GRAND TOTAL DEPARTMENT OF EDUCATION ..... 37,100,602      253,868,470      290,969,072

7. EDUCATION, STATE BOARD  
OF—MINIMUM PROGRAM AND  
PUBLIC SCHOOL FUND:

(a) Financial Assistance Program . 590,394,842

SOURCE OF FUNDS:

(1) ASETF .....	548,018,357	
(2) Public School Fund .....		37,700,000
(3) Local Funds .....		4,676,485

Total Minimum Program,  
Public School Fund and Local  
Funds .....

548,018,357	42,376,485	590,394,842
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The above appropriation shall  
be paid in accordance with  
Code of Alabama 1975, Sec-  
tions 6-13-50 through 16-13-59,  
inclusive, as amended, and all  
other legislation pertaining  
thereto.

The appropriation hereinabove set out for the fiscal year 1984-85 is based on 22,778 teacher units. It is provided in the event that there are more than 22,778 earned teacher units for the fiscal year 1984-85, then such amounts necessary to pay for these excess teacher units are hereby appropriated. It is further provided that in the event that there be less earned teacher units than those set out above, then the amount that would have been necessary to pay for those earned teacher units shall not be allotted or paid.

In allocating the funds in subsection (a) the State Board of Education shall allot as follows:

For "Board of Adjustment" awards in accordance with the Minimum Program statutes and regulations an amount not to exceed \$150,000.

For "Salaries" the amount shall not exceed a total \$451,213,980. The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of Teacher Units</u>	<u>Total</u>
AA	\$21,726	2,987	64,895,562
I	20,342	13,607	276,793,594
II	17,711	6,184	109,524,824
III	14,912	0	0
IV	12,950	0	0
		22,778	\$451,213,980

For "Principal Supplement" an amount not to exceed the total of \$2,277,800.

For "Other Current Expense" an amount not to exceed \$3,497.72 for each earned teacher unit but the total shall not exceed the sum of \$79,671,066. The "Other Current Expense" amount shall be understood to include the \$1,000 per lunchroom worker previously allocated for lunchroom worker salaries. It is also the intent of the Legislature that all lunchrooms be fully funded by local school boards from these and any other local and/or state funds available and not just from funds generated by lunchroom sales.

For "Capital Improvements" an amount not to exceed \$64.87 for each earned teacher unit but the total shall not exceed the sum of \$1,477,609.

The above appropriation contained in subsection (a) shall include an allotment for transportation in accordance with the formula adopted by the State Board of Education for the distribution of the funds to be used for transportation purposes but shall not exceed the sum of \$55,604,387.

8. EDUCATION, STATE BOARD  
OF—LOCAL BOARDS:

(a) Financial Assistance Program . . . . .	316,157,532
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SOURCE OF FUNDS:

(1) ASETF . . . . .	316,157,532
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Total State Board of Education—Local Boards . . . . .	316,157,532	316,157,532
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To be distributed by the State Board of Education for:

(a) Teachers' Sick Leave . . . . .	4,687,933
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Of the appropriation hereinabove made for Teachers' Sick Leave, the rate of not more than \$20.50 per day is hereby appropriated. It is the intent of the Legislature that the rate of local supplements paid by each school system for teachers' sick leave for the 1983-84 fiscal year be continued at the rate through the 1984-85 fiscal year. The above appropriation shall be in addition to any local sup-

plements paid for teachers' sick leave within a system.

- (b) Support Personnel Sick Leave ..... 1,912,862  
Of the appropriation hereinabove made for support personnel sick leave in accordance with Code of Alabama 1975, Section 16-1-18, as amended, the rate of not more than \$17 per day is hereby appropriated.
- (c) Teachers' Personal Leave ..... 1,174,409  
The appropriation hereinabove made for Teachers' Personal Leave provides for two (2) days personal leave at \$20.50 per teacher unit for each teacher employed (except ECIA Chapter I and 2 teachers).

It is the intent of the Legislature that the rate of local supplements paid by each school system for teachers' personal leave for the 1983-84 fiscal year be continued at that rate through the 1984-85 fiscal year. The above appropriation shall be in addition to any local supplements paid for teachers' personal leave within a system.

- (d) Funds to Replace Fees ..... 10,597,125  
Of the appropriation hereinabove made for Funds to Replace Fees, there is hereby appropriated two hundred seventy-five dollars (\$275) per teacher unit for grades K-12 for all teachers employed (except ECIA Chapter 1 and 2 teachers).
- (e) Maintenance ..... 5,968,104
- (f) Continuation of funds previously granted for Special Education ..... 24,525,489
- (g) Special Schools for Special Education ..... 2,283,000  
To be distributed by the State Board of Education as follows:  
\$350,000 shall be allocated to the Tuscaloosa Regional Handicapped School; \$450,000 shall be allocated to the Southwest Alabama School for Deaf and



Blind; \$250,000 shall be allocated to the Vivian B. Adams School; \$25,000 shall be allocated to the Butler County Training School for the Mentally Retarded in Greenville, Alabama; \$25,000 shall be allocated to the Hope Haven School in Colbert County; \$25,000 shall be allocated to the Jasper Shriner School; \$25,000 shall be allocated to the Montgomery Institute of Neurological Development in Montgomery, Alabama; \$35,000 shall be allocated to the Birmingham Training Center for Brain-Injured Children in Birmingham, Alabama; \$25,000 shall be allocated to Project Independence in Coffee County, Alabama; \$50,000 shall be allocated to the Houston County Board of Education for the Vaughn-Blumberg Center for the Developmentally Disabled; \$43,000 to Auburn University Preschool for Multi-handicapped Children; \$75,000 to the Alice Pigman School; \$75,000 to the Montgomery County Board of Education for the purpose of establishing a pilot program for deaf students in public schools; \$300,000 shall be allocated to the McInnis School in Montgomery, Alabama; \$50,000 shall be allocated to the Special Education School in Vinemont in Cullman County; \$30,000 shall be allocated to the Geneva County Day Care and Training Center; \$150,000 shall be allocated to the Dothan City Board of Education for a pilot program for gifted children; \$30,000 shall be allocated to the Houston County Board of Education for a pilot program for gifted children; \$75,000 shall be allocated

to the Cleveland School for the Handicapped; \$35,000 shall be allocated to the North Tal-ledega County Association for Retarded Citizens, Inc.; \$15,000 shall be allocated to the ECHO FOUNDATION; \$145,000 to the Alabama Institute for Deaf and Blind to implement the purposes of Code of Alabama 1975, Sections 16-39-3, as amended, and P.L. 94-142.

- (h) Kindergarten teacher units ..... 53,060,500  
The above appropriation is for 2,300 teacher units and includes salaries, other current expense, and capital improvements at the following rates:

For "Salaries" the sum shall not exceed a total of \$44,866,543. The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of Teacher Units</u>	<u>Total</u>
AA	\$21,726	162	\$ 3,519,612
I	20,342	1,323	26,912,466
II	17,711	815	14,434,465
		<u>2,300</u>	<u>\$44,866,543</u>

For "Other Current Expenses" an amount not to exceed \$3,497.72 for each earned teacher unit but the total shall not exceed the sum of \$8,044,756. The "Other Current Expense" amount shall be understood to include the \$1,000 per lunchroom worker previously allocated for lunchroom worker salaries. It is also the intent of the Legislature that all lunchrooms be fully funded by local school boards from these and any other local and/or state funds available and not just from funds generated by lunchroom sales.

For "Capital Improvements" an amount not to exceed \$64.87 for each earned teacher unit but the total shall not exceed the sum of \$149,201.

Of the above appropriation for Kindergarten Teacher Units, nine (9) units shall be allocated to the Alabama Institute for Deaf and Blind for the Preschool Deaf and Blind Program. It is the intent of the Legislature to fully fund a state-wide Kindergarten program at the ratio of 22 students in average daily attendance for the first four months to 1 teacher unit. In the event less than 2,300 teacher

units are earned for the fiscal year 1984-85, then such amount shall not be allotted or paid. In the event more than 2,300 teacher units are earned for the fiscal year 1984-85, then such amounts necessary to pay for these excess teacher units are hereby appropriated.

- (i) Continuation of Teacher Units  
to reduce pupil-teacher ratio in  
grades 1-6 ..... 15,155,597  
The above appropriation is for  
650 teacher units and includes  
salaries, other current ex-  
penses, and capital improve-  
ments at the following rates:

For "Salaries" the sum shall not exceed \$12,839,913. The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of Teacher Units</u>	<u>Total</u>
AA	\$21,726	83	\$ 1,803,258
I	20,342	378	7,689,276
II	17,711	189	3,347,379
		<u>650</u>	<u>\$12,839,913</u>

For "Other Current Expense" an amount not to exceed \$3,497.72 for each earned teacher unit but the total shall not exceed the sum of \$2,273,518. The "Other Current Expense" amount shall be understood to include the \$1,000 per lunchroom worker previously allocated for lunchroom worker salaries. It is also the intent of the Legislature that all lunchrooms be fully funded by local school boards from these and any other local and/or state funds available and not just from funds generated by lunchroom sales.

For "Capital Improvements" an amount not to exceed \$64.87 for each earned teacher unit but the total shall not exceed the sum of \$42,166.

- (j) Supportive Teacher  
Units ..... 40,034,799  
The above appropriation pro-  
vides for one extra unit or frac-  
tion thereof for each aggregate  
of fifteen (15) units or fraction  
thereof earned on regular units  
in the Minimum Program, Kin-  
dergarten Units in (h), and  
Continuation Teacher Units in  
(i). The above appropriation is  
for 1,715 teacher units and in-  
cludes salaries, other current

expense, and capital improvements at the following rates:

For "Salaries" the sum shall not exceed \$33,924,937. The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of Teacher Units</u>	<u>Total</u>
AA	\$21,726	231	\$ 5,018,706
I	20,342	997	20,280,974
II	17,711	487	8,625,257
		1,715	\$33,924,937

For "Other Current Expense" an amount not to exceed \$3,497.72 for each earned teacher unit but the total not exceed of \$5,998,590. The "Other Current Expense" amount shall be understood to include the \$1,000 per lunchroom worker previously allocated for lunchroom worker salaries. It is also the intent of the Legislature that all lunchrooms be fully funded by local school boards from these and any other local and/or state funds available and not just from funds generated by lunchroom sales.

For "Capital Improvements" an amount not to exceed \$64.87 for each earned teacher unit but the total shall not exceed the sum of \$111,252.

- (k) Special Education Teacher  
Units ..... 77,390,441  
The above appropriation is for  
3,250 teacher units and in-  
cludes salaries, other current  
expense, capital improvements  
and transportation at the fol-  
lowing rates:

For "Salaries" the sum shall not exceed \$64,964,023. The State Board of Education shall have the discretion to redistribute the number of teacher units allotted in each rank provided, however, the total amount allotted for salaries shall remain the same.

<u>Rank</u>	<u>Salary Allotment</u>	<u>Number of Teacher Units</u>	<u>Total</u>
AA	\$21,726	302	\$ 6,561,252
I	20,342	2,353	47,864,726
II	17,711	595	10,538,045
		3,250	\$64,964,023

For "Other Current Expense" an amount not to exceed \$3,497.72 for each earned teacher unit but the total shall not exceed the sum of \$11,367,590. The "Other Current Expense" amount shall